

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 : :
10 APPLIES TO ALL CASES : NO.
11 : : 1:17-MD-2804
12 : :
13

14 - HIGHLY CONFIDENTIAL -
15

16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
17

18 - - -
19 November 9, 2018
20

21 - - -
22 Videotaped deposition of
23 ERIC CHERVENY, taken pursuant to notice,
24 was held at the law offices of Reed
15 Smith, LLP, 1717 Arch Street,
16 Philadelphia, Pennsylvania, beginning at
17 9:50 a.m., on the above date, before
18 Michelle L. Gray, a Registered
19 Professional Reporter, Certified
20 Shorthand Reporter, Certified Realtime
21 Reporter, and Notary Public.
22

23 - - -
24 GOLKOW LITIGATION SERVICES
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<p>1 - - -</p> <p>2 THE VIDEOGRAPHER: We are</p> <p>3 now on the record. My name is</p> <p>4 David Lane, videographer for</p> <p>5 Golkow Litigation Services.</p> <p>6 Today's date is November 9,</p> <p>7 2018. Our time is 9:50 a.m.</p> <p>8 This deposition is taking</p> <p>9 place in Philadelphia,</p> <p>10 Pennsylvania, in the matter of</p> <p>11 National Opioid Litigation MDL.</p> <p>12 Our deponent today is Eric</p> <p>13 Cherveny.</p> <p>14 Counsel will be noted on the</p> <p>15 stenographic record.</p> <p>16 The court reporter is</p> <p>17 Michelle Gray and will now swear</p> <p>18 in our witness.</p> <p>19 - - -</p> <p>20 ... ERIC CHERVENY, having</p> <p>21 been first duly sworn, was</p> <p>22 examined and testified as follows:</p> <p>23 - - -</p> <p>24 THE VIDEOGRAPHER: Please</p>	<p>1 a named party?</p> <p>2 A. No.</p> <p>3 Q. Who were you testifying --</p> <p>4 let me back up.</p> <p>5 What was the -- what was the</p> <p>6 litigation about?</p> <p>7 A. I believe it was one of our</p> <p>8 customers.</p> <p>9 Q. Okay. Customer, and you</p> <p>10 said "we." Who is the "we"?</p> <p>11 A. AmerisourceBergen.</p> <p>12 Q. AmerisourceBergen is a large</p> <p>13 corporation. When you say</p> <p>14 AmerisourceBergen, do you mean the parent</p> <p>15 company or some subsidiary of that</p> <p>16 entity?</p> <p>17 A. I believe it was -- when I</p> <p>18 just answered that, it was for</p> <p>19 AmerisourceBergen Drug Corp.</p> <p>20 Q. Okay. So today, if we refer</p> <p>21 to AmerisourceBergen Drug Corp., could we</p> <p>22 abbreviate that as ABDC?</p> <p>23 A. Yes, of course.</p> <p>24 Q. And if we are talking about</p>
<p>1 begin.</p> <p>2 MR. CLUFF: Thank you.</p> <p>3 - - -</p> <p>4 EXAMINATION</p> <p>5 - - -</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Mr. Cherveny, before we get</p> <p>8 started, can you just spell your first</p> <p>9 and last name on the record to make sure</p> <p>10 it's clear?</p> <p>11 A. Yeah. Eric, E-R-I-C. Last</p> <p>12 name Cherveny, C-H-E-R-V-E-N-Y.</p> <p>13 Q. Okay. Thank you.</p> <p>14 And you understand that</p> <p>15 you're here as a fact witness today to</p> <p>16 give a deposition, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And have you ever</p> <p>19 given a deposition before?</p> <p>20 A. Yes.</p> <p>21 Q. When was that?</p> <p>22 A. A few years ago in New York.</p> <p>23 Q. Okay. And was that in</p> <p>24 connection with litigation where you were</p>	<p>1 its parent company, AmerisourceBergen</p> <p>2 Corp., we can call that ABC. Is that</p> <p>3 good?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And so in that New</p> <p>6 York case, do you remember when it was</p> <p>7 filed?</p> <p>8 A. No.</p> <p>9 Q. Okay. But you recall giving</p> <p>10 a deposition approximately a year ago?</p> <p>11 A. No, no. It was several</p> <p>12 years ago.</p> <p>13 Q. Oh, I'm sorry. Several</p> <p>14 years ago, thank you.</p> <p>15 Within the last five years?</p> <p>16 A. No. I believe it was longer</p> <p>17 than that.</p> <p>18 Q. Okay. So maybe between five</p> <p>19 and ten?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And you said</p> <p>22 that you believed it was one of ABDC's</p> <p>23 customers. What -- do you have a</p> <p>24 recollection of what the allegation was?</p>

<p>1 A. Absolutely no recollection 2 at all. 3 Q. Absolutely no recollection. 4 Okay. 5 Do you know if it was in 6 state court or federal court? 7 A. It was Eliot Spitzer's team 8 that was deposing me, so... 9 Q. So since it's been a while 10 since you've given a deposition, I wanted 11 to go over some things called 12 admonitions, just so you can understand 13 again. I mean, I'm sure your lawyer has 14 prepared you for today's deposition. 15 One of the things that we 16 like to do, though, just to make sure 17 everybody is on the same page on the 18 record. 19 So I'm entitled to have your 20 best understanding and your best 21 recollection to all of my questions 22 today. Your attorney is entitled to 23 object to my questions. But unless your 24 attorney specifically instructs you not</p>	<p>Page 14</p> <p>1 Q. But today you don't recall? 2 A. That's correct. 3 Q. Makes perfect sense. 4 I may ask you questions that 5 touch on issues that you may have 6 discussed with your attorneys. I'm never 7 asking you to disclose what we call 8 attorney/client privilege. And your 9 attorney may at times interject an 10 objection to clarify that you can answer 11 the question, but caution you not to 12 reveal communications that you had with 13 your attorneys. 14 But I am entitled to know 15 information that's within your own 16 personal knowledge, aside from what you 17 learned from them. Does that make sense? 18 A. Yes. 19 Q. Okay. Great. I want to 20 stay with this New York litigation a 21 little bit. 22 Are you aware of any other 23 litigation that was filed by 24 AmerisourceBergen customers against ABDC?</p>
<p>1 to answer a question, I'm entitled to an 2 answer. Okay? 3 A. Yes. 4 Q. I'm not going to ask you to 5 guess ever. But I am entitled to, as I 6 said earlier, your best recollection. 7 Sometimes I may ask you for an estimate 8 or your best attempt at getting to the 9 information that I'm asking. 10 At times, I may ask you 11 questions to which you may not know the 12 answer. I'm entitled to know, though, 13 whether you knew the answer to that 14 question at the time, and you just can't 15 recall, or whether you never knew. 16 Do you understand the 17 difference? 18 A. Yes. 19 Q. Right. So for an example, 20 this New York litigation, at some point 21 in time you knew something about the 22 allegations, correct? 23 A. Yeah, at some time I did, 24 yeah.</p>	<p>Page 15</p> <p>1 A. No. 2 Q. Never? 3 A. Not that I -- not that comes 4 to mind right now. 5 Q. Not that comes to mind. 6 Okay. 7 Is there any other 8 litigation that AmerisourceBergen has 9 been involved in that you can recall 10 aside from the litigation here today? 11 MR. NICHOLAS: Object to the 12 form. 13 THE WITNESS: I mean, 14 there's litigation that's 15 happening, but it's really not a 16 part of my direct job 17 responsibilities. So I might be 18 generally aware of it. But it's 19 not something that I know any 20 detail. 21 BY MR. CLUFF: 22 Q. What litigation are you 23 generally aware of? 24 MR. NICHOLAS: Object to the</p>

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<p>1 form.</p> <p>2 THE WITNESS: I couldn't 3 even -- I couldn't even state. I 4 can't tell you anything at this 5 point.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. But you said that you're 8 generally aware of litigation. What is 9 your general awareness?</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 THE WITNESS: I'll see 13 e-mails from time to time. But, 14 again, it's something that I'll 15 see in passing. But I have a very 16 busy job. So it's not something 17 that I spend any time reviewing.</p> <p>18 BY MR. CLUFF:</p> <p>19 Q. Okay. This New York 20 lawsuit, do you know who was suing who at 21 the time?</p> <p>22 A. It was so long ago that it's 23 something that I couldn't even -- I 24 wouldn't feel comfortable answering that.</p>	<p>1 Q. And you don't know -- you 2 mentioned earlier that it was about a 3 customer. You don't know which specific 4 customer, right?</p> <p>5 A. No.</p> <p>6 Q. We're going to talk later 7 about your job responsibilities in a 8 little more detail. But do you have any 9 familiarity in your role at 10 AmerisourceBergen or ABDC about the kinds 11 of complaints that customers might have 12 against ABDC that would lead to 13 litigation?</p> <p>14 MR. NICHOLAS: Object to the 15 form.</p> <p>16 Go ahead.</p> <p>17 THE WITNESS: Not in any 18 detail.</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. Okay. But do you have a 21 general understanding?</p> <p>22 A. I know that lawsuits are 23 filed against the company. But I don't 24 really spend time going into it in any</p>
<p>1 I don't know.</p> <p>2 Q. You mentioned the name Eliot 3 Spitzer and their team. Do you know if 4 it was an action brought by a 5 governmental entity?</p> <p>6 A. No.</p> <p>7 Q. You don't know if it was an 8 Attorney General?</p> <p>9 A. I don't know.</p> <p>10 Q. Is there anything else that 11 you remember at all?</p> <p>12 A. I remember absolutely 13 nothing about it.</p> <p>14 Q. Okay. You don't remember if 15 it was resolved by way of a settlement?</p> <p>16 A. No.</p> <p>17 Q. No judgment entered?</p> <p>18 A. No.</p> <p>19 Q. What were you called on to 20 testify about?</p> <p>21 MR. NICHOLAS: Objection.</p> <p>22 THE WITNESS: I don't 23 recall.</p> <p>24 BY MR. CLUFF:</p>	<p>1 detail. Like I said, I have a different 2 set of job responsibilities. It doesn't 3 really include that.</p> <p>4 Q. I understand that your job 5 responsibilities might include other 6 aspects of ABDC's business. But if 7 you're telling me that you have a general 8 understanding, I'm entitled to understand 9 your understanding.</p> <p>10 So aside from the fact that 11 you can't give me any particular detail, 12 what general understanding do you have of 13 the lawsuits that get filed against ABDC?</p> <p>14 MR. NICHOLAS: Object to the 15 form.</p> <p>16 THE WITNESS: Very little. 17 Like I said, it doesn't really 18 come into play with my direct 19 responsibilities with the company 20 at this time.</p> <p>21 BY MR. CLUFF:</p> <p>22 Q. But what little do you 23 understand? That's what I'm asking you 24 to explain to me.</p>

<p style="text-align: right;">Page 22</p> <p>1 MR. NICHOLAS: Object to the 2 form. Asked and answered.</p> <p>3 THE WITNESS: I mean, it's 4 going to vary depending on 5 lawsuit, from lawsuit to lawsuit. 6 I'm not going -- I'm sure they 7 have a case against the company 8 for whatever reasons, you know, 9 that they have. But I don't know 10 anything -- any details about the 11 litigation beyond that.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. When you say "they," do you 14 mean customers?</p> <p>15 A. It could be customers. It 16 could be government entities.</p> <p>17 Q. What kind of cases do 18 government entities file against ABDC?</p> <p>19 MR. NICHOLAS: Objection to 20 form. Asked and answered.</p> <p>21 THE WITNESS: I think I've 22 answered the question. I don't 23 have anything more than a basic 24 understanding that the company has</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So going forward I 3 think we'll understand that, and there 4 won't be an issue.</p> <p>5 All right. We might come 6 back to these lawsuits a little bit 7 later. But I think let's talk about your 8 experience and your job. Does that make 9 sense?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So are you employed 12 by ABDC?</p> <p>13 A. No.</p> <p>14 Q. Okay. So who are you 15 employed by?</p> <p>16 A. I'm employed by the parent 17 company, ABC.</p> <p>18 Q. Okay. How does your 19 relationship to ABDC work out then?</p> <p>20 MR. NICHOLAS: Objection to the 21 form.</p> <p>22 THE WITNESS: Subsidiary 23 company of ABC.</p> <p>24 BY MR. CLUFF:</p>
<p style="text-align: right;">Page 23</p> <p>1 lawsuits placed against it. I 2 don't have any detailed knowledge 3 about anything about the lawsuits 4 that are placed against it other 5 than what I've told you.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Sure. So your lawyer just 8 objected "asked and answered." And your 9 response was "I think I've answered the 10 question."</p> <p>11 So your lawyer, like I said, 12 is entitled to object. But I'm entitled 13 to the answer that you were going to give 14 me prior to the objection unless you're 15 instructed not to answer.</p> <p>16 So if you hear an objection 17 like asked and answered, I'm still 18 entitled to my answer. You can't just 19 change your answer to say that you've 20 answered the question.</p> <p>21 Sometimes my questions are 22 going to be slightly different than the 23 ones that I've previously asked. Does 24 that make sense?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. And so what 2 responsibilities as an employee of ABC do 3 you have towards ABDC?</p> <p>4 A. I'm the director of 5 diversion control and security for the 6 company.</p> <p>7 Q. Is diversion control the 8 same thing as security?</p> <p>9 A. No.</p> <p>10 Q. So you have kind of two 11 responsibilities then, it sounds like, 12 diversion control and then security 13 separate from diversion control?</p> <p>14 A. The formal title has some 15 security components to it. But it's 16 primarily diversion that I'm responsible 17 for.</p> <p>18 Q. Okay. How long have you 19 been an employee of ABC?</p> <p>20 A. Going on 22 years.</p> <p>21 Q. 22 years. So that's 22 sometime in the '90s, maybe '96?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And when you started</p>

<p style="text-align: right;">Page 26</p> <p>1 with -- when you started working in '96, 2 did you join ABC or some prior iteration 3 of that entity? 4 A. The company I joined at the 5 beginning was Bergen Brunswick 6 Corporation. 7 Q. And what was your title when 8 you joined Bergen Brunswick? 9 A. I was a security officer. 10 Q. What were your -- what were 11 your job responsibilities as a security 12 officer? 13 A. Basic security functions, 14 conducting patrols, conducting escorts, 15 transporting executives. 16 Q. What are basic security 17 functions? 18 A. Dealing with security 19 issues, if a fight occurs, if 20 unauthorized personnel enter the 21 property. 22 Q. So, basically, making 23 sure -- 24 MR. NICHOLAS: He wasn't --</p>	<p style="text-align: right;">Page 28</p> <p>1 record. We'll get it corrected. 2 BY MR. CLUFF: 3 Q. What do you mean by 4 conducting a patrol? 5 A. We could -- we could conduct 6 detect patrols. We had a wand and -- 7 that had little readers throughout the 8 building and would document that a 9 security patrol was done and when it was 10 done. 11 Q. You said had a wand that 12 helped you document when the patrols were 13 conducted. But what were the patrols? 14 A. To walk through the entire 15 building, all floors, and just monitor 16 the building to make sure that there was 17 no dangers, that there was no fire, that 18 there was nothing -- nothing going on 19 from a security nature that would be 20 concerning. 21 Q. Okay. And you mentioned 22 that you were responsible for conducting 23 escorts. What would you be escorting? 24 A. Associates to their cars, if</p>
<p style="text-align: right;">Page 27</p> <p>1 he wasn't finished. 2 BY MR. CLUFF: 3 Q. I'm sorry. I didn't mean to 4 interrupt you. Sorry. 5 A. Basically just related 6 duties. 7 Q. Okay. So if I'm 8 understanding you correctly, it sounds 9 like that aspect of your job was to just 10 make sure that the physical location 11 where you were employed was safe and 12 secure. Would you agree with that? 13 MR. NICHOLAS: Object to the 14 form. 15 THE WITNESS: Yes, I would. 16 BY MR. CLUFF: 17 Q. Okay. You also mentioned 18 conducting controls. What does it mean 19 to conduct a control? 20 A. I'm not -- 21 MR. NICHOLAS: I think he 22 said patrol. 23 MR. CLUFF: Okay. Patrol. 24 My fault. There's a typo in the</p>	<p style="text-align: right;">Page 29</p> <p>1 they had a spousal dispute, executives to 2 the airport, executives from the airport 3 and related duties. 4 Q. So it sounds like there was 5 some overlap with the conducting escorts 6 and transporting executives that you 7 mentioned, right? 8 A. Yes. 9 Q. Okay. So when you were with 10 Bergen Brunswick, there was -- there was 11 no diversion control responsibilities, it 12 sounds like, correct? 13 A. That's correct. 14 Q. Okay. And how long did you 15 hold this title of security officer at 16 Bergen Brunswick? 17 A. I don't recall exactly. 18 Approximately two years. 19 Q. Two years. So maybe like 20 '96 to '98-ish? 21 A. Yes. 22 Q. Before you joined Bergen 23 Brunswick, did you -- what level of 24 education did you complete?</p>

	Page 30		Page 32
1	A. Just high school and some	1	Q. So we said that -- or you
2	college.	2	said that from '96 to '98 you were a part
3	Q. Okay. High school and some	3	of the security office or group at Bergen
4	college. And where did you do the	4	Brunswick, right?
5	college?	5	And was that at a facility
6	A. Golden West College in	6	in Southern California?
7	Huntingdon Beach, California.	7	A. Yes, it was.
8	Q. Oh, yeah. I know it.	8	Q. Do you know where it was?
9	So are you originally from	9	A. 4000 Metropolitan Boulevard,
10	west coast?	10	Orange, California.
11	A. Yes.	11	Q. I know it.
12	MR. CLUFF: It's time to	12	Okay. And what did you do
13	wake up for somebody.	13	after you were a security officer?
14	BY MR. CLUFF:	14	A. Well, they were looking for
15	Q. When you were working with	15	a volunteer to type confidential
16	Bergen Brunswick, did you work with Chris	16	transcriptions of interrogations that our
17	Zimmerman?	17	investigators conducted. I type fast. I
18	A. Yes. He was with the	18	typed about 60 words a minute back then
19	company when I joined.	19	accurately. So I volunteered and I
20	Q. Okay. And what was his	20	listened to recordings for eight hours a
21	position at that time?	21	day, five days a week, and typed
22	A. I don't recall his exact	22	transcriptions of those investigations
23	title.	23	they never used, and after about six
24	Q. Okay. But you stayed with	24	months of doing that, I got noticed by
	Page 31		Page 33
1	the company as it merged up into	1	the executives upstairs and I got
2	eventually becoming ABC, correct?	2	promoted to -- to upstairs.
3	A. That's correct.	3	Q. I want to go back to Golden
4	Q. When you were at Golden	4	West just for a second. How long -- how
5	West, what kind of classes did you take?	5	long were you attending classes at Golden
6	A. General education, mainly.	6	West?
7	Q. Okay. Anything specialized	7	A. What time period?
8	towards security?	8	Q. Yeah. Like in terms of
9	A. No.	9	months, years, weeks?
10	Q. Did you complete an	10	A. I think it was about one
11	Associate's degree?	11	year.
12	A. No, I did not.	12	Q. About a year.
13	Q. Did you have any law	13	And were you a full-time
14	enforcement-type classes?	14	student?
15	A. No, I did not at that time.	15	A. I don't know if I was
16	Q. So you'd agree with me that	16	formally full-time, but I was taking a
17	none of your college classes overlapped	17	pretty full load.
18	with the security responsibilities you	18	Q. Okay. And so were you
19	had at Bergen Brunswick, right?	19	taking a full load for two semesters
20	MR. NICHOLAS: Object to the	20	or -- what was your workload while you
21	form.	21	were at Golden West?
22	THE WITNESS: Yes, I would	22	A. It was -- I think it was
23	agree.	23	close to a full load. I think I was
24	BY MR. CLUFF:	24	taking about five classes per semester.

<p style="text-align: right;">Page 34</p> <p>1 Q. Per semester. How come you 2 decided not to pursue a further education 3 at Golden West?</p> <p>4 A. I decided to join the Navy.</p> <p>5 Q. Awesome. When were you in 6 the Navy?</p> <p>7 A. I was in the United States 8 Navy from -- from '86 to '91.</p> <p>9 Q. Were you on a boat?</p> <p>10 A. Yes.</p> <p>11 Q. Or ship, excuse me?</p> <p>12 A. Yes, I was assigned to the 13 USS Nimitz.</p> <p>14 Q. What -- what was your 15 responsibility in the Navy?</p> <p>16 A. I was a radar air traffic 17 controller. I was a final, final 18 controller on board the Nemitz from '87 19 to '91.</p> <p>20 Q. So no, no security 21 responsibilities there though, right?</p> <p>22 A. I volunteered for shore 23 patrol pretty much every time I had duty. 24 So in that capacity I had -- I had</p>	<p style="text-align: right;">Page 36</p> <p>1 four investigators, and I would type 2 transcriptions for their individual 3 investigations as per their request. So 4 given the time period that's passed, I 5 wouldn't feel comfortable answering how 6 many investigations were conducted, you 7 know, at one time, or during the entire 8 six months. I just have no recollection 9 of that.</p> <p>10 Q. The investigators that 11 worked at that time, were they full-time?</p> <p>12 A. Yes. I believe so.</p> <p>13 Q. Okay. And were they 14 employed by Bergen Brunswick, or were 15 they outside consultants?</p> <p>16 A. No. They were Bergen 17 Brunswick associates.</p> <p>18 Q. So Bergen Brunswick -- is it 19 fair to say that Bergen Brunswick had a 20 serious concern about internal theft at 21 that time?</p> <p>22 MR. NICHOLAS: Object to the 23 form.</p> <p>24 THE WITNESS: Yes. We've</p>
<p style="text-align: right;">Page 35</p> <p>1 security experience.</p> <p>2 Q. Makes sense. The 3 interrogations that you were typing, I 4 believe that's the word you used, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Those were from 7 investigations that Bergen Brunswick 8 employees were conducting?</p> <p>9 A. Yes, that's correct.</p> <p>10 Q. What kind of investigations 11 were they?</p> <p>12 A. They were various 13 investigations. But per my recollection, 14 they primarily involved internal thefts 15 of controlled substances.</p> <p>16 Q. In the six months that you 17 were transcribing those interrogations 18 how many investigations do you think were 19 ongoing at that time?</p> <p>20 A. I have no idea.</p> <p>21 Q. Could you give me a 22 ballpark, maybe like more than 10, more 23 than 20?</p> <p>24 A. I mean there were three or</p>	<p style="text-align: right;">Page 37</p> <p>1 always taken that very seriously 2 as a company.</p> <p>3 BY MR. CLUFF:</p> <p>4 Q. In 1998 was there -- what -- 5 what were the drugs being stolen, or what 6 products were being stolen?</p> <p>7 A. I mean I would say generally 8 it would have been controlled substances. 9 Also Viagra was a -- was a product that 10 was commonly stolen from our distribution 11 centers.</p> <p>12 Q. Any particular category of 13 controlled substances that were being 14 stolen at that time?</p> <p>15 A. No, they spanned all 16 categories. We had vault products as 17 well as caged products that would be 18 Schedule II, as well as Schedule III 19 through V products.</p> <p>20 Q. Okay. What is a vault 21 product?</p> <p>22 A. The vaults are maintained to 23 hold Schedule II narcotics, and that's 24 per federal regulations.</p>

<p>1 Q. Okay. Are all narcotics 2 Schedule II narcotics or is there some 3 variation in that group? 4 A. Narcotics are broken into 5 Schedule II and II-N. There'd be two, 6 Schedule II narcotics and non-narcotics. 7 Q. Okay. And then what's a 8 caged product? 9 A. Those are products 10 categorized in Schedule IIIIs, IVs and Vs. 11 Q. What's the difference 12 between a cage and a vault? 13 A. Well, a vault is pretty much 14 what you would see in a bank. It's got 15 steel walls and it's constructed in 16 accordance with federal regulations to 17 hold controlled substances, specifically 18 narcotics. 19 The cage is really just 20 exactly the way it's indicated. It's a 21 cage that's chain-link fence that 22 generally has five sides, four sides plus 23 a ceiling. That's basically -- and it's 24 all constructed within federal</p>	<p>Page 38</p> <p>1 Q. And it sounds like what 2 you're saying is per the DEA regulations, 3 those needed to be more secure than the 4 Schedule IIIIs, correct? 5 A. That's correct. 6 Q. And what is your 7 understanding of why they needed to be 8 more secure? 9 A. Generally speaking, per, per 10 federal regulations, the more powerful 11 the drug family, you know, the higher the 12 regulatory requirement for storage. 13 Q. What do you mean when you 14 say a more powerful? 15 A. Well, controlled substances 16 are broken into Schedule I through Vs. 17 Is, Schedule I products have no medicinal 18 value like LSD. It's used for like in a 19 research and laboratories. 20 Schedule IIIs generally are 21 from the opiate pop, either it's 22 basically narcotics, opium. Generally 23 used for cancer patients, pain 24 medications. Schedule IIIIs, IVs and Vs,</p>
<p>1 regulation, regulatory requirements. 2 Q. Sure. So if I understand 3 you correctly, the cage products, they go 4 inside this fence enclosure, and those 5 are Schedule IIIIs -- or III, IV and Vs, 6 correct? 7 A. That's correct. 8 Q. It would seem like maybe 9 less security is necessary around those 10 products is -- is what is happening, 11 because there's a cage, not a vault? 12 A. Yes, per federal regulation. 13 Q. Okay. In your experience 14 was there less likelihood of theft of the 15 Schedule IIIIs versus Schedule IIIs? 16 A. No. No, pretty much it was 17 all stolen pretty -- pretty -- I mean 18 based on my recollection I think it was 19 pretty common negative inventories for 20 the cage and the vault product. 21 Q. Mm-hmm. And then so the 22 vault products, those were the Schedule 23 IIIs, correct? 24 A. Yes.</p>	<p>Page 39</p> <p>1 as you move up that number, the lesser 2 control it has. Like Schedule V would be 3 children's NyQuil with codeine. It still 4 has the codeine in it so it has to be 5 categorized as a control. But has very 6 little potential for abuse because it's 7 in a lower quantity. 8 Q. Is it your opinion that 9 children's NyQuil with codeine does not 10 have a likelihood of abuse? 11 MR. NICHOLAS: Object to the 12 form. 13 Go ahead. 14 THE WITNESS: I would say 15 that it has less likelihood of 16 abuse than -- than some other 17 products, yeah. 18 BY MR. CLUFF: 19 Q. I'm going to circle back to 20 my question because you gave me a lot of 21 information. I'm not sure if -- if I 22 understand the answer to the answer to my 23 question. 24 You earlier testified that,</p>

Page 42	Page 44
<p>1 per federal regulations, the more 2 powerful the drug family the higher the 3 regulatory requirement. My question was, 4 what do you mean when you say the more 5 powerful the drug is it needs more 6 security.</p> <p>7 What would you describe as a 8 more powerful effect that one drug has 9 versus another?</p> <p>10 MR. NICHOLAS: Object to the 11 commentary before the question. 12 Go ahead.</p> <p>13 THE WITNESS: Well, our DEA 14 categorizes these drugs. And they 15 determine the -- the higher 16 propensity for diversion and 17 abuse, and they are the ones that 18 basically set where they are to be 19 stored.</p> <p>20 So we just follow those 21 regulations. I'm not a 22 pharmacist. I don't have, you 23 know, I don't have detailed 24 knowledge of -- of the actual</p>	<p>1 MR. NICHOLAS: Object to the 2 form. Go ahead.</p> <p>3 THE WITNESS: Yes, I would 4 agree with that.</p> <p>5 BY MR. CLUFF:</p> <p>6 Q. Okay. So I'm just wondering 7 if in your head there's a connection 8 between a drug being more prone to 9 diversion and abuse and a drug being more 10 powerful?</p> <p>11 MR. NICHOLAS: Object to the 12 form.</p> <p>13 THE WITNESS: Not always.</p> <p>14 BY MR. CLUFF:</p> <p>15 Q. But sometimes?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So like the drugs in 18 Schedule II, you mentioned narcotics and 19 opium-based products, those are more 20 powerful than some drugs in Schedule III, 21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And based on your 24 testimony earlier, drugs in Category 2</p>
<p>1 chemical breakdown of those drugs, 2 so I would just leave it at that.</p> <p>3 But the DEA pretty much sets 4 the requirements and we follow 5 that requirement.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. That makes sense. Okay. So 8 I just want to make sure I understand. 9 I'm not trying to rehash anything here. 10 Earlier you said more powerful, and then 11 I asked for a little more of an 12 explanation. And then you followed up 13 with this explanation that the DEA sets 14 these lists or categories.</p> <p>15 Does that make sense at that 16 point?</p> <p>17 MR. NICHOLAS: Object to the 18 form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. And that the -- that the 22 lists or categories are based on 23 likelihood of abuse and diversion. Did I 24 get that correct?</p>	<p>1 would be as determine -- would have been 2 determined by the DEA to be more prone to 3 diversion and abuse, correct?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: Well, they are 7 more powerful. Not all Schedule 8 IIs are as prone for abuse as -- 9 as other -- other Schedule IIs. 10 But I would say DEA makes those 11 determinations and we follow that 12 like I said.</p> <p>13 BY MR. CLUFF:</p> <p>14 Q. Okay. I'm confused though. 15 So you said that in your head there is a 16 connection between the power of a drug 17 and its -- its likelihood of diversion 18 and abuse, right?</p> <p>19 A. Based on DEA. Because based 20 on DEA's findings and their -- and their 21 analysis of those drugs, yes.</p> <p>22 Q. Okay. So then it's your -- 23 it's your opinion that the DEA has 24 categorized the more powerful drugs as</p>

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<p>1 you've referred to them as drugs that are 2 more prone to diversion and abuse, right? 3 MR. NICHOLAS: Object to the 4 form. 5 THE WITNESS: Yes. 6 BY MR. CLUFF: 7 Q. Okay. And C-IIIs are higher 8 than C-IIIIs, right? 9 A. That's correct. 10 Q. Let me back up. I used an 11 abbreviation. I said C-II and C-III. If 12 I say C-II, do you understand that I'm 13 talking to Schedule II drugs, right? 14 A. Yes. 15 Q. And if I say C-III we are 16 talking about Schedule III drugs? 17 A. Yes. 18 Q. Okay. So C-IIIs -- backing 19 up again -- they're more powerful than 20 C-III? 21 A. Yes, they are. 22 Q. So as a general category 23 they are more likelihood -- more likely 24 to be diverted and subject to abuse than</p>	<p>1 think that's what -- yes. That's 2 what DEA -- that's what DEA 3 determines. 4 BY MR. CLUFF: 5 Q. Okay. I think earlier you 6 talked about that AmerisourceBergen is 7 committed to -- and I don't want to put 8 words in your mouth. So if I get this 9 wrong, please help me understand -- is 10 committed to making sure that they follow 11 DEA direction regarding C-IIIs and C-IIIIs, 12 right? 13 A. I'm sorry. Can you restate 14 that? 15 Q. Sure. When we were talking 16 about how the DEA classifies drugs into 17 the schedules, right, Schedule I, 18 Schedule II, Schedule III, I recall you 19 answering to the effect that 20 AmerisourceBergen or ABDC is committed to 21 following DEA direction about the 22 classification of drugs, right? 23 A. We're committed to following 24 direction as per the regulation as to</p>
Page 47	Page 49
<p>1 C-III, right? 2 MR. NICHOLAS: Object to the 3 form. 4 THE WITNESS: Well, not 5 always. I mean, prometh with 6 codeine is a Schedule V, and it's 7 highly abused in the United 8 States, in many cases more so than 9 narcotics. 10 So I would say that the DEA 11 breaks down those drug categories, 12 and they tell us where we are 13 supposed to store them. So 14 generally the DEA considers them 15 more likely to be abused. 16 BY MR. CLUFF: 17 Q. Okay. Understood. So I 18 think we'd agree then that the higher you 19 go on the schedule, right, C-V, C-IV, 20 C-III, C-II, there's a higher likelihood 21 of abuse? 22 MR. NICHOLAS: Object to the 23 form. 24 THE WITNESS: I mean, I</p>	<p>1 where they are stored. 2 Q. As to where they're stored. 3 Okay. 4 So then that means 5 AmerisourceBergen's commitment only 6 extends as far as the cages and the 7 vaults are concerned; is that right? 8 MR. NICHOLAS: Object to the 9 form. 10 THE WITNESS: Yes. 11 BY MR. CLUFF: 12 Q. All right. I'd like to go 13 back to the investigations for a second. 14 Do you recall any of the 15 outcome of these investigations that you 16 were transcribing? 17 A. No. I wasn't involved in 18 that at all. 19 Q. Do you know if Bergen 20 Brunswick ever uncovered any internal 21 thefts of C-II or C-III? 22 A. Based on my experience as a 23 regional director, yes, I can tell you 24 that we have identified internal thefts</p>

1 and we have -- we have -- through the 2 investigation, we identified who -- who 3 the theft was happening -- or who was 4 conducting the theft. 5 Q. Okay. Maybe our -- maybe 6 our lines got crossed there, because you 7 answered about your experience as a 8 regional director. And you said that 9 you -- that we -- I'm using the "we" that 10 you used -- have identified thefts. Were 11 you answering about your current 12 responsibilities as a regional director 13 for ABC? 14 A. No. 15 Q. Oh, okay. So you were 16 talking about Bergen Brunswick at the 17 time? 18 A. Well, I'm not currently -- 19 I'm not currently regional director. 20 That was my previous role before I took 21 over diversion. 22 Q. Okay. 23 A. But you asked sort of a 24 broad question. So, yes, we have as a	Page 52 1 specific investigations about thefts of 2 prescription opioids? 3 A. Yes. That was a -- that was 4 a category of drug that we conducted 5 investigations on. 6 Q. Okay. What is your earliest 7 recollection of an investigation of a 8 theft of a prescription opioid? 9 A. I don't remember. 10 Q. Okay. You worked for the 11 company for 22 years. Would you have 12 become aware of an investigation 13 regarding the theft of prescription 14 opioids when you were transcribing 15 investigations between -- or after '98? 16 A. Yes. I mean, that's -- 17 that's when I would have been exposed to 18 those kinds of investigations. 19 Q. Okay. So that's maybe a 20 reasonable beginning point on when you 21 became aware of investigations, correct? 22 A. Yes. 23 Q. Do you know when 24 prescription opioids first hit the
1 company identified internal thefts. 2 Q. Okay. What was stolen? If 3 you want to categorize what's been stolen 4 I'm okay with that. 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: I mean over 8 the course of 22 years, the 9 various drugs, I couldn't give you 10 specifics. 11 Everywhere -- everything 12 from non-controlled prescription 13 drugs like Viagra to controlled 14 substances in all categories. 15 BY MR. CLUFF: 16 Q. Okay. What kinds of 17 controlled substances were stolen? 18 A. Like I said, all categories. 19 Q. Anabolic steroids? 20 A. All categories. I don't 21 recall specific investigation for a theft 22 of anabolic steroids. But I wouldn't be 23 surprised if it happened. 24 Q. Okay. Do you recall any	Page 51 1 market? And by the market, I mean to be 2 written for use by everyday consumers. 3 A. No. 4 Q. If I told you that OxyContin 5 was first approved for use in 1999, would 6 that jog your recollection? 7 A. No. 8 Q. Okay. Do you recall 9 investigations about prescription opioids 10 anytime after 2000? 11 A. Yes. I was exposed to 12 investigations post 2000 time frame. 13 Q. Okay. When would that have 14 been? 15 A. Post 2000. 16 Q. Okay. Coming back to your 17 responsibilities today as a director for 18 ABC, when is the most recent 19 investigation that you can recall 20 regarding the theft of a prescription 21 opioid? 22 A. In my current role, we don't 23 conduct investigations of internal 24 thefts. That's handled by a different

<p>1 team.</p> <p>2 Q. Sure. That's fair. It's</p> <p>3 not the question I asked you though. I</p> <p>4 asked you when was the most recent</p> <p>5 investigation that you were aware of?</p> <p>6 MR. NICHOLAS: Object to the</p> <p>7 form and the commentary. No need</p> <p>8 for that.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: I don't</p> <p>11 recall.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. Anytime in the last year?</p> <p>14 A. My job is extremely busy.</p> <p>15 And it takes up all of my time. So I</p> <p>16 really don't pay attention to internal</p> <p>17 thefts. If that comes up, it's</p> <p>18 transferred to a different team. My job</p> <p>19 is to operate and run the diversion</p> <p>20 program. I don't really get involved in</p> <p>21 internal thefts at our distribution</p> <p>22 center level.</p> <p>23 Q. So internal thefts are not</p> <p>24 investigated as part of the diversion</p>	<p>Page 54</p> <p>1 if internal theft is considered a</p> <p>2 component of the overall diversion</p> <p>3 control program. It might touch</p> <p>4 on that. But it's certainly not</p> <p>5 something that my team handles</p> <p>6 directly.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. Okay. All right. So it</p> <p>9 sounds like the investigations thing is</p> <p>10 pretty well outside your area of</p> <p>11 expertise. Would you agree with that?</p> <p>12 A. At this time, yes.</p> <p>13 Q. Okay. So you said that you</p> <p>14 typed up these investigations for six</p> <p>15 months. Was that still in California?</p> <p>16 A. Yes.</p> <p>17 Q. And that was at the Orange,</p> <p>18 the City of Orange address, right?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And then you made a</p> <p>21 comment earlier that while you were doing</p> <p>22 that, you got noticed by the executives.</p> <p>23 Did I get that right?</p> <p>24 A. Yes.</p>
<p>1 program?</p> <p>2 MR. NICHOLAS: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: Not by my</p> <p>5 team.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Whose team investigates</p> <p>8 them?</p> <p>9 A. It would be probably a joint</p> <p>10 effort between the regulatory team and</p> <p>11 the investigative team.</p> <p>12 Q. Okay. And who, who are</p> <p>13 responsible for those teams?</p> <p>14 A. Steve Mays for regulatory</p> <p>15 and Bruce Gundy for investigations.</p> <p>16 Q. So those two teams would be</p> <p>17 investigating internal thefts, correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. Is that part of</p> <p>20 AmerisourceBergen's diversion control</p> <p>21 program?</p> <p>22 MR. NICHOLAS: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: I can't recall</p>	<p>Page 55</p> <p>1 Q. Okay. Who would the</p> <p>2 executives have been and what did they</p> <p>3 notice?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: They noticed</p> <p>7 that I broke -- that I was pretty</p> <p>8 good at English, and I was able to</p> <p>9 break down the -- the interview</p> <p>10 interrogations into paragraphs. I</p> <p>11 was able to break -- break the</p> <p>12 grammar down properly in the</p> <p>13 interrogation report that I</p> <p>14 transcribed. So basically, they</p> <p>15 just noticed the reports that I</p> <p>16 was generating for them.</p> <p>17 BY MR. CLUFF:</p> <p>18 Q. And who would the executives</p> <p>19 have been?</p> <p>20 A. Chris Zimmerman and the</p> <p>21 investigators that I was conducting the</p> <p>22 transcriptions for.</p> <p>23 Q. Who would the investigators</p> <p>24 have been?</p>

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<p>1 A. John Bruce, John Gibson, 2 Greg Madsen. There might have been more, 3 but that's the three that come to mind. 4 Q. When you were doing these -- 5 the transcriptions, were you still a 6 security officer? 7 A. Yes. 8 Q. Who were you reporting to at 9 that time? 10 A. Leo Schmock. 11 Q. Can you spell that for me? 12 A. Leo, L-E-O. Schmock, 13 S-C-H-M-O-C-K, I believe. 14 Q. That was between '96 and 15 roughly the middle of 1998, correct? 16 A. Yes. 17 Q. All right. And do you know 18 what Leo Schmock's position was? 19 A. I think it evolved, but when 20 I was hired I believe he was the manager 21 of security services. 22 Q. And after you got noticed by 23 the executives, was there a change in 24 your job responsibilities?</p>	<p>1 governmental subpoenas? 2 A. Yes. 3 Q. Okay. What kind of 4 information requests would you be 5 receiving? 6 A. It varied. Across the board 7 mostly sales requests, request for sales 8 data from our customers. But it -- it 9 was on various subject matters. 10 Q. What kind of information 11 were you providing to state and federal 12 agencies? 13 A. Sales reports and other -- 14 other information, per the subpoena. 15 Like I said they pretty much -- the 16 subpoenas that we received, you know, 17 were on an array of subject matters. 18 Q. Okay. How long did you work 19 in this department? 20 A. I worked there until the 21 merger in 2001. 22 Q. But your responsibilities in 23 that department, would you agree with me, 24 had no diversion control overlap at all,</p>
<p>1 A. Yes. 2 Q. What was the change? 3 A. I was moved upstairs. And I 4 was given the responsibility of taking 5 over subpoenas, information requests from 6 state and federal agencies, as well as 7 licensing. 8 Q. Subpoenas, information 9 requests from state and federal agencies 10 and licensing. Okay. 11 And what department was that 12 that you were involved in then? 13 A. I don't remember exactly 14 what -- what our department was called 15 under Bergen. 16 Q. Okay. And who were you 17 reporting to at that time? 18 A. I believe I was reporting 19 to -- directly to Chris Zimmerman. 20 Q. And so you would be 21 assisting the company in responding to 22 subpoenas? 23 A. Correct. 24 Q. And were those civil and</p>	<p>1 right? 2 MR. NICHOLAS: Object to the 3 form. 4 THE WITNESS: That's 5 correct. 6 BY MR. CLUFF: 7 Q. Okay. So you said there was 8 a merger in 2001? 9 A. Yes. 10 Q. Okay. And that was between 11 Bergen Brunswick and who? 12 A. Amerisource Health. 13 Q. Was there any change in your 14 responsibilities at the time of the 15 merger? 16 A. Yes. 17 Q. And what was that? 18 A. I was relocated from Orange, 19 California, to Chesterbrook, 20 Pennsylvania, and I continued to conduct 21 the licensing and information requests 22 for a period of time, but -- but shortly 23 thereafter I took over the east region as 24 a regulatory manager.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q. Okay. Did you have a job 2 title when you were in the department 3 that handled the subpoenas and other 4 information requests?</p> <p>5 A. I did. I don't recall what 6 it was though.</p> <p>7 Q. Okay. And what years would 8 you have been working in that group, you 9 said it was 1998 to 2001?</p> <p>10 A. Roughly.</p> <p>11 Q. Okay. And that was -- that 12 was the job you held before the merger, 13 right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Did you have any 16 other job responsibilities during that 17 time?</p> <p>18 A. We were asked to do -- 19 conduct, you know, duties, you know, on 20 various different -- on various subject 21 matters. But I think that's pretty much 22 what all my responsibilities entailed. 23 That pretty much took all my time. I was 24 busy. I was one person doing subpoena</p>	<p style="text-align: right;">Page 64</p> <p>1 to manager of regulatory compliance. 2 Either manager or supervisor. I can't 3 remember what the exact title was. 4 Q. Okay. So prior to the 5 merger, you don't recall having a job 6 title. Or you just don't recall what it 7 was.</p> <p>8 A. I had a title. I just don't 9 recall what it was.</p> <p>10 Q. Okay. And you were working 11 in information requests essentially, 12 right?</p> <p>13 A. And licensing was a big part 14 of my job as well.</p> <p>15 Q. What do you mean by 16 licensing?</p> <p>17 A. So I -- I coordinated all 18 licensing for each of our distribution 19 centers. So we had, I believe, 26 20 distribution centers on the Bergen side 21 and I handled that up to the merger. And 22 then post merger we picked up another 26 23 distribution centers, I believe, that 24 Amerisource had, for a total of 52</p>
<p style="text-align: right;">Page 63</p> <p>1 information requests and handling 2 licensing for all their distribution 3 centers. That took up -- that took up 4 almost all my time.</p> <p>5 Q. Okay. That's fine. And 6 then you said after the merger you were 7 relocated from Orange County, California, 8 to Chesterbrook, Pennsylvania, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And you said you 11 continued to conduct the licensing and 12 information requests?</p> <p>13 A. For a period of time, yes.</p> <p>14 Q. Okay. Do you remember if 15 the department you were working in at 16 that time after the merger had a name?</p> <p>17 A. Yeah. Post merger we became 18 the corporate security regulatory affairs 19 department.</p> <p>20 Q. And did you have a job title 21 when you switched over to the new 22 company?</p> <p>23 A. At that time, I think I 24 stated before, I think they switched me</p>	<p style="text-align: right;">Page 65</p> <p>1 distribution centers. So I was 2 responsible for bringing those divisions 3 together, conducting name changes on the 4 licensing, and a lot of other related 5 work, related to that merger.</p> <p>6 There was a lot of work that 7 was involved when you merge two 8 distribution centers from two different 9 companies. So I was involved with that 10 for probably the first six months to a 11 year after the merger. And that was -- 12 that was the reason, because I was pretty 13 much the licensing expert for our -- for 14 our company, Bergen Brunswick, and so I 15 coordinated all that.</p> <p>16 Q. So it sounds like you -- you 17 bled between two time periods there. I 18 just want to make sure I understand what 19 we were talking about.</p> <p>20 So from '98 to 2001, when 21 the company was Bergen Brunswick, in 22 addition to the information requests that 23 you handled, you also managed the 24 licensing for all 26 of Bergen</p>

<p style="text-align: right;">Page 66</p> <p>1 Brunswick's distribution centers, right? 2 A. That's correct. 3 Q. Okay. And what did that 4 entail? 5 A. Renewing the -- the DEA 6 registrations. I was responsible for 7 bringing Bergen Brunswick distribution 8 centers into a batch renewal, which was a 9 new project that the DEA rolled out in 10 that time frame.</p> <p>11 And also all the state 12 licenses that the distribution centers -- 13 each distribution center held a number of 14 state licenses, maybe, you know, five to 15 ten state licenses that they distributed 16 into. So -- so basically, all licenses 17 that the distribution centers held, 18 federal and state.</p> <p>19 Q. Okay. And in your job 20 responsibilities where you were handling 21 the information requests and the 22 licensing of distribution centers, you 23 reported directly to Chris Zimmerman?</p> <p>24 A. I don't recall who I</p>	<p style="text-align: right;">Page 68</p> <p>1 occurred, there was a combination of 2 Bergen Brunswick's distribution centers 3 and Amerisource Health's distribution 4 centers, correct? 5 A. Yes. 6 Q. Okay. And you were 7 responsible for integrating the licensing 8 of those two groups of distribution 9 centers? 10 A. That's correct. 11 Q. All right. And that was 12 part of your responsibility as either the 13 manager or supervisor of regulatory 14 compliance? 15 A. No. I wasn't -- I don't 16 think it was included in that -- in that 17 job title. But I kept -- I kept that 18 previous responsibility for a period of 19 time, then it was subsequently 20 transferred to a member of the legal 21 department after -- after I took over my 22 new role as -- I believe it was 23 supervisor of regulatory compliance. 24 Q. Okay. So you handled the</p>
<p style="text-align: right;">Page 67</p> <p>1 reported to post merger, but at some 2 point I transferred to Steve Mays. 3 Q. I'm talking about 4 pre-merger. I'm sorry. 5 A. I'm sorry. Pre-merger I 6 believe I was reporting directly to Chris 7 Zimmerman for that entire period. 8 Q. Understood. So in 2001 the 9 merger happened, correct? 10 A. Correct. 11 Q. And then Bergen Brunswick 12 merged with Amerisource Health, right? 13 A. Correct. 14 Q. Do you know what the name of 15 that entity was? 16 A. The post merger name? 17 Q. Yeah. 18 A. That is when 19 AmerisourceBergen Corporation was 20 created. 21 Q. Okay. So that is the 22 beginning of ABC then? 23 A. That's correct. 24 Q. And when the merger</p>	<p style="text-align: right;">Page 69</p> <p>1 licensing until it moved to legal, 2 correct? 3 A. Yes. 4 Q. Do you recall when that was? 5 A. No. I think it was -- it 6 was post -- obviously it was post 2001. 7 I think it took us about a year to 8 transfer the licenses to the new name. 9 Q. Okay. So at the time of the 10 merger I think you referenced that a new 11 department in ABC was created called the 12 corporate security and regulatory affairs 13 department, correct? 14 A. That's correct. 15 Q. Did an entity similar to 16 that exist at Bergen Brunswick prior to 17 the merger? 18 A. Yes. 19 Q. And what was that called? 20 A. Yeah, that was what I don't 21 recall. 22 Q. Got it. Do you know if an 23 entity like that existed at Amerisource 24 Health prior to the merger?</p>

<p>1 A. Yes, it did.</p> <p>2 Q. Okay. Do you know what that</p> <p>3 was called?</p> <p>4 A. No, I don't recall that</p> <p>5 either.</p> <p>6 Q. But out of the merger came</p> <p>7 the CSRA, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. All right. And you became a</p> <p>10 supervisor of compliance?</p> <p>11 A. I think it was the</p> <p>12 supervisor of regulatory compliance, yes.</p> <p>13 Q. And what were your</p> <p>14 responsibilities as a supervisor of</p> <p>15 regulatory compliance?</p> <p>16 A. I was assigned the east</p> <p>17 region. So I basically was responsible</p> <p>18 for all regulatory and security</p> <p>19 requirements for my distribution centers.</p> <p>20 And I also conducted audits of my</p> <p>21 distribution centers, as well as</p> <p>22 distribution centers outside of my</p> <p>23 region.</p> <p>24 Q. What -- what states were in</p>	<p>Page 70</p> <p>1 A. I don't recall the exact</p> <p>2 dates.</p> <p>3 Q. Can you give me a ballpark</p> <p>4 on how long you were in that -- were in that</p> <p>5 position?</p> <p>6 A. Well, the regions changed</p> <p>7 and shifted over time, and my title</p> <p>8 shifted over time. But I basically held</p> <p>9 that general responsibility from</p> <p>10 approximately 2002 until 2015.</p> <p>11 Q. Okay. Can you name any</p> <p>12 states that were in the east region in</p> <p>13 2001?</p> <p>14 A. Pretty much as far northeast</p> <p>15 as you can go. Maine, Massachusetts,</p> <p>16 Rhode Island, New York, Rhode Island, New</p> <p>17 Jersey, Pennsylvania, certainly North</p> <p>18 Carolina.</p> <p>19 Q. How about Florida?</p> <p>20 A. No, I don't believe that was</p> <p>21 included. That was part of the south</p> <p>22 region I believe.</p> <p>23 Q. South region.</p> <p>24 What about Ohio?</p>
<p>1 the east region if you can recall?</p> <p>2 A. The breakdown of each region</p> <p>3 has shifted over the -- over that period</p> <p>4 of time. So I don't recall what the</p> <p>5 region consisted of when I was initially</p> <p>6 assigned it.</p> <p>7 Q. What was involved in being</p> <p>8 responsible for regulatory requirements</p> <p>9 for your distribution centers?</p> <p>10 A. Basically all of security</p> <p>11 requirements. We also conducted OSHA</p> <p>12 audits. So it really entailed everything</p> <p>13 the DEA would do if they came into our</p> <p>14 distribution center and conducted an</p> <p>15 audit. And so we would basically oversee</p> <p>16 all of the state and federal requirements</p> <p>17 from a regulatory and security</p> <p>18 standpoint. And we would conduct an</p> <p>19 audit and we would just do internal</p> <p>20 audits and -- and we would correct any</p> <p>21 deficiencies that we identified.</p> <p>22 Q. What time period were you</p> <p>23 employed as the regulatory compliance</p> <p>24 supervisor?</p>	<p>Page 71</p> <p>1 A. I don't recall.</p> <p>2 Q. How many regions were there</p> <p>3 at the time?</p> <p>4 A. That also shifted over time.</p> <p>5 Q. How about in 2001? How many</p> <p>6 regions were there?</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. How many regions are</p> <p>9 there today?</p> <p>10 A. Again, it's outside of my</p> <p>11 area. I believe there's four regions.</p> <p>12 But I could be -- I could be mistaken.</p> <p>13 Again, it's not really something that I</p> <p>14 focus on in my current responsibilities.</p> <p>15 Q. Were there ever more than</p> <p>16 four regions?</p> <p>17 A. I believe there was five at</p> <p>18 one time.</p> <p>19 Q. So at some point there may</p> <p>20 have been five. Now there are four?</p> <p>21 A. I'm not sure about that.</p> <p>22 But I think that may be accurate.</p> <p>23 Q. Okay. Do you know who was</p> <p>24 responsible for the south region in 2001?</p>

<p style="text-align: right;">Page 74</p> <p>1 A. No.</p> <p>2 Q. Do you know who would know</p> <p>3 that information?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 Go ahead.</p> <p>7 THE WITNESS: I'm sure it's</p> <p>8 in our files. I'm sure that --</p> <p>9 I'm sure we could find it in our</p> <p>10 documentation. Steve Mays would</p> <p>11 know I think.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. Do you know if Steve Mays</p> <p>14 was responsible for the Florida -- for</p> <p>15 the south region in 2001?</p> <p>16 A. No. When I took over the</p> <p>17 east region, he was the director that I</p> <p>18 reported to. So he wouldn't have been</p> <p>19 directly responsible for the south</p> <p>20 region.</p> <p>21 Q. Do you know how many</p> <p>22 distribution centers there were in the</p> <p>23 east region when you took over</p> <p>24 responsibility for it?</p>	<p style="text-align: right;">Page 76</p> <p>1 regulatory standpoint and audited for</p> <p>2 that.</p> <p>3 Q. So that -- does that mean</p> <p>4 that you were essentially responsible for</p> <p>5 the cages and the vaults?</p> <p>6 A. We had on-site management</p> <p>7 that were responsible for day-to-day</p> <p>8 functionality. But I would go in</p> <p>9 periodically and audit, you know, for the</p> <p>10 federal requirements and the state</p> <p>11 requirements for their day-to-day</p> <p>12 operations.</p> <p>13 Q. Which kind of requirements</p> <p>14 for day-to-day operations were you</p> <p>15 auditing?</p> <p>16 A. Ensuring the inventories</p> <p>17 were conducted properly. We keep</p> <p>18 perpetual inventories for our controlled</p> <p>19 substances to ensure that there's no</p> <p>20 daily or internal theft. Again, we did</p> <p>21 OSHA audits. We would ensure that proper</p> <p>22 training was conducted. We could ensure</p> <p>23 that the procedures were being followed</p> <p>24 with regards to shipment and receiving of</p>
<p style="text-align: right;">Page 75</p> <p>1 A. No, I don't recall that.</p> <p>2 Q. Do you remember the names of</p> <p>3 any of the distribution centers that you</p> <p>4 were responsible for?</p> <p>5 A. I know some of them.</p> <p>6 Q. Which ones?</p> <p>7 A. Thorofare, New Jersey;</p> <p>8 Mansfield, Massachusetts; Bethlehem came</p> <p>9 on after I took over that region. It's</p> <p>10 changed -- it shifted so many times in</p> <p>11 that -- in that multiple-year period. I</p> <p>12 just don't recall.</p> <p>13 Q. I want to go back to your</p> <p>14 job responsibilities. You said you were</p> <p>15 in charge of regulatory and security and</p> <p>16 then audits. Did I get that right, as</p> <p>17 the supervisor of regulatory compliance?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So what did it mean</p> <p>20 to be in charge of regulatory compliance</p> <p>21 for the distribution centers?</p> <p>22 A. Well, as I stated, we</p> <p>23 oversaw all state and federal</p> <p>24 requirements from a security and</p>	<p style="text-align: right;">Page 77</p> <p>1 controlled substances and prescription</p> <p>2 drugs, and similar requirements that we</p> <p>3 maintained.</p> <p>4 Q. What do you mean by ensuring</p> <p>5 that the procedures were being followed</p> <p>6 with regard to shipments and receiving</p> <p>7 controlled substances and prescription</p> <p>8 drugs?</p> <p>9 A. Well, our distribution</p> <p>10 centers have a lot of internal</p> <p>11 requirements with regard to shipment of</p> <p>12 controlled substances.</p> <p>13 So for example, at one point</p> <p>14 the vault product had to remain in the</p> <p>15 vault until it was transported out to the</p> <p>16 vehicles as a safety precaution to ensure</p> <p>17 that theft didn't happen and that it was</p> <p>18 maintained under constant supervision.</p> <p>19 Same thing with receiving of</p> <p>20 controlled substances. There was a very</p> <p>21 specific protocol that we follow in all</p> <p>22 of our distribution centers. So when</p> <p>23 they're received at the receiving dock,</p> <p>24 that they're maintained under constant</p>

<p style="text-align: right;">Page 78</p> <p>1 supervision. They're counted to ensure 2 there's no concealed shortage, that 3 that's nothing -- you know, once we sign 4 for the product, it's ours. And if we 5 identify a shortage after we sign for it, 6 then it's our loss, and we have to file a 7 106 with the DEA.</p> <p>8 So we did everything we 9 could to identify those shortages prior 10 to signing for the product and then 11 escorting that product to the authorized 12 storage area in a timely manner. So -- 13 so requirements like that, there's a 14 whole array of requirements that we have 15 that are similar to that.</p> <p>16 Q. Sounds like those are about 17 the security of the product, though, 18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So what you were 21 auditing as the supervisor of the 22 regulatory compliance -- as a supervisor 23 of the regulatory compliance was really 24 just about, is the distribution center</p>	<p style="text-align: right;">Page 80</p> <p>1 they're properly completed. Receiving of 2 narcotics, we have to make sure that 3 those -- those forms are completed 4 properly.</p> <p>5 Customer returns, we have to 6 look at the product and make sure that 7 the product, you know, wasn't opened.</p> <p>8 There was a lot of OSHA 9 requirements that we followed from a 10 security -- safety standpoint.</p> <p>11 There's a lot of -- there's 12 a lot of state requirements that we have 13 to follow for prescription drugs as well 14 since that is not on a federal 15 jurisdiction. That's more state 16 jurisdiction.</p> <p>17 So there's a whole array of 18 state-specific regulations that we also 19 have to follow with regard to 20 prescription drugs. So we have a very 21 long audit checklist that we follow at 22 that level.</p> <p>23 So it takes about a full 24 week to conduct those audits. There's a</p>
<p style="text-align: right;">Page 79</p> <p>1 following the security regulations for 2 controlled substances in the distribution 3 center, correct?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: Not just 7 security. Regulatory as well. I 8 mean, most of our distribution 9 centers back then were using paper 10 222 forms for shipment and 11 receiving of narcotics.</p> <p>12 So there's a whole array of 13 federal requirements on a 14 regulatory standpoint that we had 15 to ensure that the distribution 16 centers were following as well.</p> <p>17 Not all of that specifically 18 covers security. There's a lot of 19 regulatory requirements that we're 20 required to follow as a 21 wholesaler.</p> <p>22 BY MR. CLUFF:</p> <p>23 Q. Like what?</p> <p>24 A. 222 forms, making sure that</p>	<p style="text-align: right;">Page 81</p> <p>1 lot of requirements that we have to 2 follow.</p> <p>3 Q. So you talked about a number 4 of different regulatory requirements. Is 5 that all of the regulatory requirements 6 that you were overseeing as a supervisor 7 at that point in time?</p> <p>8 MR. NICHOLAS: Object to the 9 form.</p> <p>10 THE WITNESS: Yeah, during 11 that period of time, we audited to 12 ensure the distribution centers 13 were following all state and 14 federal regulations.</p> <p>15 BY MR. CLUFF:</p> <p>16 Q. Okay. At that -- you said 17 during that period of time. So when you 18 say that period of time, you mean from 19 approximately 2001 until when?</p> <p>20 A. Until I was transferred to 21 diversion in 2015.</p> <p>22 Q. So in 2015 is the first time 23 that you start doing any diversion work?</p> <p>24 MR. NICHOLAS: Object to the</p>

	Page 82		Page 84
1	form.	1	Q. Mr. Cherveny, you understand
2	THE WITNESS: Yes.	2	that you're still under oath, right?
3	BY MR. CLUFF:	3	A. Yes.
4	Q. Okay. So at the	4	Q. Okay. Great.
5	distribution centers, when you were the	5	When we broke last time, we
6	supervisor, your only focus is the	6	were talking about your responsibilities
7	regulatory requirements that you've	7	as the supervisor of regulatory
8	described to me so far?	8	compliance at the newly formed ABC
9	A. Well, I --	9	entity, correct?
10	MR. NICHOLAS: Object to the	10	A. Yes.
11	form.	11	Q. Okay. You said that you
12	THE WITNESS: I didn't	12	held that position from approximately
13	describe all the requirements. I	13	2001-2002 to 2015?
14	gave you an overview of a lot of	14	A. Correct.
15	requirements. But I said there	15	Q. Okay. And when you first
16	was a lot of other related	16	stepped into that role, you were
17	responsibilities that we audited	17	responsible for the east region, correct?
18	for.	18	A. Correct.
19	BY MR. CLUFF:	19	Q. Okay. And did your
20	Q. Okay. Are there any other	20	responsibilities ever increase as a
21	regulatory requirements that are more	21	supervisor of regulatory compliance at
22	important than the ones you've described	22	any time between 2002 and 2015?
23	to me?	23	A. No.
24	MR. NICHOLAS: Object to the	24	Q. So you essentially held the
	Page 83		Page 85
1	form.	1	same job for 13 years?
2	THE WITNESS: I wouldn't	2	A. Correct.
3	put -- I wouldn't categorize	3	Q. And during that entire time,
4	regulatory requirements as	4	you were responsible for a region of
5	important and non-important.	5	AmerisourceBergen's distribution centers?
6	They're all important.	6	A. Correct.
7	BY MR. CLUFF:	7	Q. And those responsibilities
8	Q. Are there any additional	8	covered all things related to regulatory
9	regulatory requirements that stand out to	9	compliance and security compliance and
10	you that you haven't described to me yet?	10	audits?
11	A. There could be. None that	11	MR. NICHOLAS: Is that -- is
12	come to mind right now.	12	it a question?
13	MR. CLUFF: Why don't we	13	BY MR. CLUFF:
14	take a quick break. We've been	14	Q. Did I get that right?
15	going about an hour. We can all	15	A. Well, we would audit
16	stretch our legs and we'll come	16	according to the audit checklist. But,
17	back and pick up again, like five,	17	yes, it entailed security and regulatory
18	10 minutes.	18	compliance.
19	THE VIDEOGRAPHER: Going off	19	Q. So you were responsible for
20	the record. 10:49 a.m.	20	regulatory and security compliance. And
21	(Short break.)	21	then as part of that responsibility, you
22	THE VIDEOGRAPHER: Back on	22	would audit the distribution centers,
23	record at 11:15 a.m.	23	correct?
24	BY MR. CLUFF:	24	A. Correct.

<p style="text-align: right;">Page 86</p> <p>1 Q. Okay. So as the person who 2 was overseeing the regulatory and 3 security compliance, you had to have, I'm 4 assuming, a very thorough understanding 5 of the regulatory requirements for the 6 distribution centers, correct?</p> <p>7 MR. NICHOLAS: Object to the 8 form.</p> <p>9 THE WITNESS: Yes, I had an 10 understanding of the regulations.</p> <p>11 BY MR. CLUFF:</p> <p>12 Q. And where do those 13 regulations come from?</p> <p>14 MR. NICHOLAS: Object to the 15 form.</p> <p>16 THE WITNESS: Depending on 17 the jurisdiction, state and 18 federal.</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. Okay. And for the federal 21 jurisdiction, what is the -- is there a 22 governing statute?</p> <p>23 MR. NICHOLAS: Object to the 24 form.</p>	<p style="text-align: right;">Page 88</p> <p>1 that the -- it's the title that 2 the regulations that we follow are 3 basically under.</p> <p>4 BY MR. CLUFF:</p> <p>5 Q. Is the Controlled Substance 6 Act part of Title 21?</p> <p>7 A. I'm not sure.</p> <p>8 Q. Are you familiar with the 9 term "Code of Federal Regulations"?</p> <p>10 A. Yes.</p> <p>11 Q. What's your understanding of 12 the Code of Federal Regulations?</p> <p>13 MR. NICHOLAS: Object to the 14 form.</p> <p>15 THE WITNESS: The Code of 16 Federal Regulations is what the 17 DEA utilizes to -- to outline what 18 we're required to do from a 19 federal regulatory standpoint.</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. Have you ever heard of the 22 Controlled Substances Act?</p> <p>23 A. Yes.</p> <p>24 Q. Where have you heard of it?</p>
<p style="text-align: right;">Page 87</p> <p>1 THE WITNESS: There are a 2 lot of regulations that -- that 3 apply to what we do as a 4 wholesaler.</p> <p>5 BY MR. CLUFF:</p> <p>6 Q. Okay. Is there a governing 7 statute?</p> <p>8 A. I'm not sure what you mean 9 by governing statute.</p> <p>10 Q. Okay. Is there a statute at 11 the federal level that creates the 12 regulatory requirements you're referring 13 to?</p> <p>14 MR. NICHOLAS: Object to the 15 form.</p> <p>16 THE WITNESS: I know there 17 was Title 21 that the regulations 18 are contained in.</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. What's Title 21?</p> <p>21 MR. NICHOLAS: Object to the 22 form. No lawyer. Go ahead.</p> <p>23 THE WITNESS: It's the -- 24 it's the regulation that the --</p>	<p style="text-align: right;">Page 89</p> <p>1 A. I don't recall.</p> <p>2 Q. You don't recall.</p> <p>3 You understand that</p> <p>4 AmerisourceBergen sells controlled 5 substances, right?</p> <p>6 A. Yes.</p> <p>7 Q. And you don't recall when 8 you've heard the term "Controlled 9 Substances Act" before?</p> <p>10 A. I don't recall the initial 11 time that I heard that.</p> <p>12 Q. Is it something that you're 13 familiar with in your work though?</p> <p>14 A. More of its existence, yes.</p> <p>15 Q. So from 2002 to 2015, you 16 described the regulatory and security 17 compliance responsibilities as 18 essentially making sure that the 19 regulations regarding vault security and 20 cage security were being followed, 21 correct?</p> <p>22 MR. NICHOLAS: Object to the 23 form.</p> <p>24 THE WITNESS: Correct.</p>

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<p>1 BY MR. CLUFF:</p> <p>2 Q. Okay. You also mentioned</p> <p>3 Form 222; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. What's a Form 222?</p> <p>6 A. It's a narcotic order form.</p> <p>7 Q. And what was your regulatory</p> <p>8 compliance responsibility regarding order</p> <p>9 forms?</p> <p>10 MR. NICHOLAS: Object to the</p> <p>11 form. Go ahead.</p> <p>12 THE WITNESS: We would -- we</p> <p>13 would review a number of 222 forms</p> <p>14 as part of the audit.</p>	<p>1 responsibilities. I'm just trying to</p> <p>2 make sure I understand what you've</p> <p>3 explained to me as being the scope of</p> <p>4 your duties. Does that make sense?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So again, we talked</p> <p>7 about the vault and cage security,</p> <p>8 Form 222, and now I'm asking about</p> <p>9 physical security at the distribution</p> <p>10 centers. That was another area of your</p> <p>11 responsibility?</p> <p>12 A. Yeah, to audit for that.</p>
<p>13 Q. To audit for that.</p> <p>14 A. Yes.</p> <p>15 Q. So you were not in charge of</p> <p>16 security. You just audited security?</p> <p>17 A. Well, I audited the</p> <p>18 distribution centers. The compliance</p> <p>19 manager reported to me and they were</p> <p>20 responsible for it, for the distribution</p> <p>21 centers within my region.</p> <p>22 Q. And I also recall that --</p> <p>23 that you were responsible for auditing</p> <p>24 receipts of shipments and shipments that</p>	
<p>1 Q. Except for when you were</p> <p>2 conducting an audit, were you ever</p> <p>3 required to review Form 222s?</p> <p>4 A. Yes, we reviewed Form 222</p> <p>5 forms.</p> <p>6 Q. As a part of audits or as</p> <p>7 part of your regular responsibilities?</p> <p>8 A. As part of the audit.</p> <p>9 Q. Okay. Aside from vault and</p> <p>10 cage security, and Form 222s, I think you</p> <p>11 also mentioned just like physical</p> <p>12 security of -- physical security of the</p> <p>13 distribution centers. Did I get -- is</p> <p>14 that correct?</p> <p>15 MR. NICHOLAS: Object to the</p> <p>16 form.</p> <p>17 Are you talking about</p> <p>18 throughout his entire testimony or</p> <p>19 just --</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. From 2002 to 2015 when you</p> <p>22 were the supervisor of regulatory</p> <p>23 compliance, I'm just trying to understand</p> <p>24 the scope of your regulatory compliance</p>	<p>1 went out to customers, right?</p> <p>2 A. That procedures were</p> <p>3 followed regarding those operations, yes.</p> <p>4 Q. What procedures were you</p> <p>5 auditing?</p> <p>6 A. There's various procedures.</p> <p>7 Q. Can you describe some to me?</p> <p>8 A. As I stated before, receipts</p> <p>9 of controlled substances have to be</p> <p>10 identified upon receipt. They have to be</p> <p>11 verified and they have to be maintained</p> <p>12 under constant supervision. There's</p> <p>13 multiple requirements we had internally</p> <p>14 that I don't have in front of me. So</p> <p>15 that's just the basic requirements that</p> <p>16 they have.</p> <p>17 Q. You were the guy that was</p> <p>18 responsible for auditing these practices,</p> <p>19 right?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form. Go ahead.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. CLUFF:</p> <p>24 Q. So I'm just trying to</p>

<p style="text-align: right;">Page 94</p> <p>1 understand what you know about the 2 procedures that you were auditing. Does 3 that make sense?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. Okay. So you said shipments 9 and receipts. So you audited the 10 procedures to make sure they were being 11 followed, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And then I believe 14 another area that you talked about 15 auditing was order filling; is that 16 correct?</p> <p>17 A. Well, order filling was, 18 yeah, the -- the process of -- of filling 19 an order that's going to be shipped. So 20 we had limited responsibility. That was 21 mostly operations. But there were some 22 things that tied to regulatory.</p> <p>23 Q. Okay. So you would have 24 audited the regulatory compliance of the</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. So you worked with that 2 policy for 13 years?</p> <p>3 A. Yes, I did.</p> <p>4 Q. And you can't recall it?</p> <p>5 MR. NICHOLAS: Object to the 6 form.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. You can answer my question.</p> <p>9 A. I recall it in a general 10 sense, but without having that in front 11 of me, those policies evolve over time. 12 So I wouldn't feel comfortable, you know, 13 discussing that as it might not be the 14 same as it was when I was doing it. Plus 15 it was years ago.</p> <p>16 Q. It was three years ago, 17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. I'm entitled to understand 20 your general sense of it that you just 21 testified to having. So please explain 22 to me your general sense of that policy 23 and procedure.</p> <p>24 A. With regards to what</p>
<p style="text-align: right;">Page 95</p> <p>1 order-filling process, essentially making 2 sure that the pills that were on the 3 shelves in the vaults or the -- the 4 cages, got onto the order pallet 5 correctly and got to the customer, right?</p> <p>6 A. Yeah, in accordance with our 7 internal policy.</p> <p>8 Q. Okay. What internal policy 9 was that?</p> <p>10 A. Policies and procedures with 11 regard to regulatory compliance.</p> <p>12 Q. Can you describe what the 13 policy or procedure was around filling an 14 order out of the cages or vaults?</p> <p>15 A. It was so long ago, I 16 wouldn't feel comfortable talking about 17 the regulation without it being in front 18 of me.</p> <p>19 Q. Would you --</p> <p>20 A. Or the policy rather.</p> <p>21 Q. You were in charge of 22 auditing that policy between 2002 and 23 2015, correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 97</p> <p>1 specific operation?</p> <p>2 Q. The filling of orders out of 3 the cages and vaults.</p> <p>4 A. So the -- the cage and the 5 vault has order fillers that -- that -- 6 whose responsibility is that they -- that 7 they take the product, they put them in 8 the totes according to customer orders. 9 And depending on if it's cage or vault, 10 they will -- they'll fill the order. 11 There's, in some cases, a double-check to 12 make sure that the order is accurate. 13 And then at some point those orders get 14 strapped and transferred to the shipping 15 dock for shipment. There's a lot of 16 internal components to that.</p> <p>17 Q. Sure. So as the supervisor 18 of regulatory compliance, your job was to 19 make sure that the distribution center 20 employees were going through that process 21 correctly, right?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. So I've got this list 24 down. You let me know if there's</p>

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<p>1 anything else you want to add to it.</p> <p>2 As the supervisor of</p> <p>3 regulatory compliance, your</p> <p>4 responsibility was to essentially ensure</p> <p>5 that the distribution centers were</p> <p>6 following all of the regulations, the</p> <p>7 regulatory regulations that govern the</p> <p>8 distribution of controlled substances,</p> <p>9 right?</p> <p>10 MR. NICHOLAS: I'm going to</p> <p>11 object to the form. Are you</p> <p>12 reading him a list or what?</p> <p>13 MR. CLUFF: I'm asking him a</p> <p>14 question, Bob.</p> <p>15 MR. NICHOLAS: Right.</p> <p>16 Object to the form. Go</p> <p>17 ahead.</p> <p>18 THE WITNESS: I mean, we --</p> <p>19 we followed our internal policies</p> <p>20 and procedures and we had an audit</p> <p>21 checklist that was, I think,</p> <p>22 spanned over 200 questions and</p> <p>23 multiple sections. So what I've</p> <p>24 covered here is just a general</p>	<p>1 BY MR. CLUFF:</p> <p>2 Q. So all 200 questions on that</p> <p>3 form are significant?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: Yeah, I would</p> <p>7 agree with that.</p> <p>8 BY MR. CLUFF:</p> <p>9 Q. But you can't recall what</p> <p>10 they are today?</p> <p>11 A. Well, there's return</p> <p>12 procedures, there's PDMA requirements,</p> <p>13 there's physical security. There's a</p> <p>14 number of sections that we audited for.</p> <p>15 Q. Physical security is one we</p> <p>16 talked about already though, correct?</p> <p>17 Okay.</p> <p>18 What other internal</p> <p>19 procedures were you auditing?</p> <p>20 A. Other than what I've</p> <p>21 covered?</p> <p>22 Q. Yeah.</p> <p>23 A. There were like -- there was</p> <p>24 multiple sections that we covered.</p>
<p>1 overview. But, you know, without</p> <p>2 having that audit checklist in</p> <p>3 front of me, I mean I can't really</p> <p>4 determine that there's -- you</p> <p>5 know, I haven't covered every</p> <p>6 single component to the program.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. But some of the ones that</p> <p>9 you've highlighted are vault and cage</p> <p>10 security, correct, correct order forms,</p> <p>11 physical security, shipping and receiving</p> <p>12 controlled substances, and order filling.</p> <p>13 Were there any other areas</p> <p>14 of that audit checklist that you felt</p> <p>15 were significant in your role as a</p> <p>16 supervisor in relation to</p> <p>17 AmerisourceBergen distributing controlled</p> <p>18 substances?</p> <p>19 MR. NICHOLAS: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: Yeah, there</p> <p>22 were a lot of other components.</p> <p>23 They were all -- they are all</p> <p>24 significant.</p>	<p>1 Q. What were some of the</p> <p>2 sections?</p> <p>3 A. Other than what I've</p> <p>4 covered?</p> <p>5 Q. Yes.</p> <p>6 A. Well, diversion is one</p> <p>7 section.</p> <p>8 Q. What's diversion?</p> <p>9 A. What do you mean by that</p> <p>10 question, what's diversion? You want a</p> <p>11 definition?</p> <p>12 Q. I've been talking to you</p> <p>13 about the audit that you performed on</p> <p>14 distribution centers in your role as the</p> <p>15 supervisor of the regulatory compliance</p> <p>16 department, or supervisor of regulatory</p> <p>17 compliance.</p> <p>18 And we've gone through a</p> <p>19 number of responsibilities that the</p> <p>20 distribution centers had that you were</p> <p>21 auditing. And we've gone through a list.</p> <p>22 And I asked you if there were any others.</p> <p>23 You then told me that diversion was one.</p> <p>24 So it's the first time that</p>

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<p>1 I heard that word referred to in your job 2 responsibilities today. I'm asking you, 3 what is diversion?</p> <p>4 MR. NICHOLAS: I'll object 5 to the form of the question.</p> <p>6 MR. CLUFF: Do not coach 7 this witness.</p> <p>8 MR. NICHOLAS: All I'm going 9 to do is object to the form of the 10 question.</p> <p>11 Long speech before the 12 question.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: So you're 15 asking me what diversion is?</p> <p>16 BY MR. CLUFF:</p> <p>17 Q. Yeah.</p> <p>18 A. Diversion is the transfer of 19 controlled substances into illegal 20 channels.</p> <p>21 Q. Okay. So you were 22 responsible for auditing diversion at the 23 distribution centers?</p> <p>24 A. We --</p>	<p>1 A. Like me, his region shifted, 2 I think, over the period of the time that 3 we held that job. Generally over the 4 west region, I believe.</p> <p>5 Q. West region?</p> <p>6 A. I think for a large part of 7 the time.</p> <p>8 Q. Was he ever responsible for 9 the region that included Florida?</p> <p>10 A. I don't believe so.</p> <p>11 Q. What about Cathy Marcum?</p> <p>12 What regions was she responsible for?</p> <p>13 A. I don't recall over that 14 period of time. They shifted.</p> <p>15 Q. Is Cathy Marcum still 16 responsible for a region at 17 AmerisourceBergen?</p> <p>18 A. She works for Steve Mays. 19 I'm not sure what her specific 20 responsibilities are at this time.</p> <p>21 Q. What about Erica Burwell? 22 Do you know what region she was 23 responsible for?</p> <p>24 A. Again, it shifted over a</p>
<p>1 MR. NICHOLAS: Object to the 2 form.</p> <p>3 Go ahead.</p> <p>4 THE WITNESS: We completed 5 the audit checklist that covered 6 diversion. That's correct.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. Who's "we"?</p> <p>9 A. The auditors.</p> <p>10 Q. Okay. Who were the 11 auditors?</p> <p>12 A. They varied over the time 13 that I held that job.</p> <p>14 Q. What are some of their 15 names?</p> <p>16 A. Greg Madsen, Cathy Marcum. 17 Today or during the time that I held the 18 job?</p> <p>19 Q. During the time that you 20 held the job.</p> <p>21 A. Erica Burwell. That was it. 22 There was four of us.</p> <p>23 Q. What area was Greg Madsen 24 responsible for?</p>	<p>1 period of years.</p> <p>2 Q. Can you tell me which 3 regions?</p> <p>4 A. I believe she was 5 responsible for the south region at one 6 time.</p> <p>7 Q. So she would have been 8 responsible for Florida?</p> <p>9 A. At one time, yeah.</p> <p>10 Q. Okay. Do you know when Ms. 11 Burwell began working for 12 AmerisourceBergen?</p> <p>13 A. No, I don't recall that.</p> <p>14 Q. Is she still employed at 15 AmerisourceBergen?</p> <p>16 A. No.</p> <p>17 Q. Do you know when she left 18 the company?</p> <p>19 A. No, I don't recall.</p> <p>20 Q. Do you know if anyone else 21 has been responsible for the south region 22 in the time that you've been employed by 23 AmerisourceBergen from 2002 to the 24 present?</p>

<p>1 A. I'm not really sure who is 2 responsible for it now. Like I said, it 3 shifted.</p> <p>4 Q. Do you know if anybody 5 besides Erica Burwell were responsible 6 for it during the time that you were a 7 supervisor?</p> <p>8 A. Over the roughly 13 years 9 that I held that job, I don't recall 10 anybody else who had the south region 11 other than Erica Burwell. It could have 12 been some other people that took over 13 Orlando, but I don't recall.</p> <p>14 Q. So we got to those names 15 because you mentioned that "we," the 16 regional supervisors, audited diversion 17 at the distribution centers.</p> <p>18 What were they looking at 19 when they audited the distribution 20 centers about diversion?</p> <p>21 A. There were questions on the 22 audit checklist that covered that 23 component of the program.</p> <p>24 Q. Do you remember what some of</p>	<p>Page 106</p> <p>1 training.</p> <p>2 Q. What were you looking at 3 about training?</p> <p>4 A. Just ensure that it was 5 completed per policy.</p> <p>6 Q. So based on that question, 7 there was an AmerisourceBergen policy 8 about training distribution center 9 associates about diversion?</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 Go ahead.</p> <p>13 THE WITNESS: Yes, I believe 14 there was.</p> <p>15 BY MR. CLUFF:</p> <p>16 Q. And you would have been 17 responsible for auditing the training 18 processes for approximately 13 years, 19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall, based on your 22 13 years of experience auditing training, 23 what the training policy was?</p> <p>24 A. Well, there was different</p>
<p>1 the questions were?</p> <p>2 A. I think there was a daily 3 activity report that the compliance 4 manager had to complete and sign.</p> <p>5 Q. So you would have been 6 looking at those reports?</p> <p>7 A. Yes, as the auditor.</p> <p>8 Q. Just to double-check that 9 they were being filled out?</p> <p>10 A. Yeah, and they were filled 11 out properly.</p> <p>12 Q. Okay. So making sure they 13 were complete?</p> <p>14 A. Yes.</p> <p>15 Q. And that they had, what, 16 accurate information?</p> <p>17 A. Yes. We would -- we would 18 audit them to make sure that they were 19 completed per policy.</p> <p>20 Q. What are some of the other 21 things that you were looking at in terms 22 of diversion at the distribution centers 23 while you were conducting audits?</p> <p>24 A. Another component was</p>	<p>Page 107</p> <p>Page 109</p> <p>1 training for different personnel. So we 2 would ensure that the appropriate 3 training was conducted in the time period 4 that it was required for the correct 5 associates.</p> <p>6 Q. Were there different time 7 periods for different associates?</p> <p>8 A. I don't recall. I believe 9 it was an annual requirement.</p> <p>10 Q. So generally distribution 11 center associates were required to be 12 trained annually, right?</p> <p>13 A. I believe so. (Brief interruption.)</p> <p>14 MR. CLUFF: Off the record 15 for a second.</p> <p>16 THE VIDEOGRAPHER: Going off 17 the record, 11:36 a.m. (Brief pause.)</p> <p>18 THE VIDEOGRAPHER: Back on 19 record, 11:36 a.m.</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. I want to go back to the 22 other regional supervisors who were in</p>

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<p>1 charge of auditing. You said that you 2 believed that Erica Burwell was 3 responsible for the Florida -- the south 4 region until some other people took over. 5 Do you know who would have taken over? 6 A. I don't recall. I believe 7 Erica was in charge of that region for -- 8 for the majority of the time, if not all 9 of the time.</p> <p>10 Q. Is there any reason that the 11 south region stands out to you as 12 somebody taking over?</p> <p>13 A. No. It would just be a 14 normal shift in the -- in the regional 15 break down. Obviously when she left the 16 company somebody else took over that 17 region.</p> <p>18 Q. Do you recall who that is?</p> <p>19 A. I don't recall.</p> <p>20 Q. Is there any reason that the 21 south region would stand out to you 22 compared to any other region?</p> <p>23 A. Not from an audit 24 standpoint, no.</p>	<p>1 2015. So we can use your dates for your 2 job responsibilities, and I would ask you 3 during that time, was there any reason 4 that the south region stood out to you 5 from a -- from an audit standpoint?</p> <p>6 A. No. From an audit 7 standpoint I can't really think of 8 anything that would have impacted me as 9 an auditor.</p> <p>10 Q. Is there anything that would 11 have impacted AmerisourceBergen from your 12 standpoint as an auditor in the south 13 region between 2002 and 2015?</p> <p>14 MR. NICHOLAS: Object to the 15 form.</p> <p>16 THE WITNESS: I can't speak 17 to what the corporation would 18 have -- would have thought 19 regarding -- regarding audit 20 standpoint.</p> <p>21 BY MR. CLUFF:</p> <p>22 Q. Okay. I don't think that's 23 the question that I asked. You had 24 experience as an auditor looking at a</p>
<p>1 Q. There were no significant 2 events in the south region from an 3 auditing standpoint that would concern 4 you?</p> <p>5 MR. NICHOLAS: Object to the 6 form.</p> <p>7 Could you put a time period 8 on this?</p> <p>9 BY MR. CLUFF:</p> <p>10 Q. You can answer my question.</p> <p>11 A. Yeah, I would ask you to 12 rephrase the question with a little more 13 detail.</p> <p>14 Q. We talked earlier about the 15 fact that you're not entitled to change 16 your answer based on objections that your 17 attorney makes unless you're specifically 18 instructed not to answer my question.</p> <p>19 I'm going to put a time 20 frame on this question, but I think you 21 understand that I'm talking about your 22 time as supervisor of regional 23 compliance -- of regulatory compliance. 24 You told me that was between 2002 and</p>	<p>1 number of different aspects of the 2 distribution center business, correct?</p> <p>3 A. Correct.</p> <p>4 Q. One of them was diversion, 5 right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. You also have a long 8 history with AmerisourceBergen regarding 9 licensing of the distribution centers, 10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Would you agree with me that 13 you are very fluent in the licensing 14 requirements for a distribution center?</p> <p>15 A. Yes, I would agree with 16 that.</p> <p>17 Q. And based on your auditing 18 of regulatory compliance at the 19 distribution centers, would you also 20 agree with me that you're very familiar 21 with the regulatory requirements the 22 distribution centers have?</p> <p>23 A. Yes. I am very familiar 24 with that.</p>

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<p>1 Q. Are you aware of any events 2 in the south region from a licensing or 3 regulatory compliance point of view that 4 would concern you?</p> <p>5 MR. NICHOLAS: Object to the 6 form.</p> <p>7 THE WITNESS: Yes. Events 8 did occur that impacted the south 9 region.</p> <p>10 BY MR. CLUFF:</p> <p>11 Q. What events?</p> <p>12 A. I recall that in 2007 the 13 Orlando distribution center had their DEA 14 license suspended.</p> <p>15 Q. So previously I asked you if 16 there was anything that happened in that 17 region that concerned you from an 18 auditing standpoint. And you said no.</p> <p>19 A. That's correct.</p> <p>20 Q. So is your answer that the 21 suspension of a distribution center's 22 license doesn't concern you?</p> <p>23 MR. NICHOLAS: Objection. 24 It's just arguing.</p>	<p>1 Q. Have there ever been any 2 actions against registrations of 3 distribution centers in the regions that 4 you were responsible for between 2002 and 5 2015?</p> <p>6 A. Yeah. Various actions were 7 taken on my distribution centers through 8 that period.</p> <p>9 Q. Okay. What actions were 10 taken against your distribution centers?</p> <p>11 A. Over a 13-year period?</p> <p>12 Q. Yes, please.</p> <p>13 A. We had multiple DEA audits 14 during -- during that period of time, 15 multiple state audits during that time. 16 I couldn't give you specifics on actions 17 that were taken in all distribution 18 centers that spans such a long period of 19 time. I don't recall.</p> <p>20 Q. Were there ever any 21 suspensions of a distribution center's 22 license in your regions?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Were there any</p>
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<p>1 MR. CLUFF: It's a question, 2 Bob.</p> <p>3 MR. NICHOLAS: Go ahead. 4 It's just arguing. Stalling.</p> <p>5 MR. CLUFF: Bob, I'm allowed 6 to ask argumentative questions. 7 It's a deposition. Don't coach 8 this witness.</p> <p>9 MR. NICHOLAS: I'm not -- 10 that's not coaching. I just said 11 you're arguing. Period. 12 Objection. 13 Go ahead.</p> <p>14 THE WITNESS: I don't think 15 that the -- that the action taken 16 against that distribution center 17 affected my -- from an audit 18 standpoint. So that's the 19 question that I was answering.</p> <p>20 My audits -- my audits were 21 conducted regardless of what 22 action is taken on a distribution 23 center.</p> <p>24 BY MR. CLUFF:</p>	<p>1 investigations of diversion at any of the 2 distribution centers within your regions 3 between 2002 and 2015?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. What were some of those?</p> <p>9 A. I can't speak to them in 10 detail. Diversion, internal thefts, 11 in-route thefts were investigations that 12 we routinely conducted through that 13 period.</p> <p>14 Q. So would you agree with me 15 that if a theft occurs inside of 16 AmerisourceBergen, that would constitute 17 diversion?</p> <p>18 A. Yes, that would qualify as 19 diversion.</p> <p>20 Q. So AmerisourceBergen was 21 essentially investigating diversion 22 within its own company while you were 23 working as a regional supervisor from 24 2002 to 2015?</p>

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<p>1 MR. NICHOLAS: Object to the 2 form.</p> <p>3 THE WITNESS: Yes. Internal 4 theft was a common occurrence that 5 we investigated for.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. What happened to those pills 8 that were stolen?</p> <p>9 MR. NICHOLAS: Object to the 10 form. Go ahead.</p> <p>11 THE WITNESS: In many cases 12 they were recovered. If they 13 weren't recovered, there's no way 14 for us to know what -- what 15 happened to them.</p> <p>16 BY MR. CLUFF:</p> <p>17 Q. Do you think they ended up 18 in the illegal market?</p> <p>19 MR. NICHOLAS: Object to the 20 form.</p> <p>21 THE WITNESS: There's no way 22 for me to speculate what -- what 23 happened to those products that 24 were stolen.</p>	<p>1 BY MR. CLUFF:</p> <p>2 Q. You said that "per the 3 regulation we're required to monitor 4 customer orders and identify suspicious 5 orders."</p> <p>6 And then you said "there's 7 no way for a wholesaler to specifically 8 prevent diversion."</p> <p>9 Did I get your testimony 10 correctly?</p> <p>11 MR. NICHOLAS: Object to the 12 form.</p> <p>13 THE WITNESS: I mean 14 diversion, there's just not enough 15 information that we have. But I 16 would say that the overall goal of 17 our program is to prevent 18 diversion. But specifically we -- 19 we monitor for suspicious orders 20 and that's the limit of what we do 21 within my program.</p> <p>22 BY MR. CLUFF:</p> <p>23 Q. You said you're familiar 24 with the Controlled Substance Act, right?</p>
Page 119	Page 121
<p>1 BY MR. CLUFF:</p> <p>2 Q. What do people usually do 3 with products that they steal?</p> <p>4 MR. NICHOLAS: Object to the 5 form of the question.</p> <p>6 THE WITNESS: There's no way 7 I could speculate as to what 8 happens to products that are 9 stolen.</p> <p>10 BY MR. CLUFF:</p> <p>11 Q. Do you understand that 12 AmerisourceBergen has a regulatory 13 obligation to maintain systems to prevent 14 diversion?</p> <p>15 MR. NICHOLAS: Object to the 16 form.</p> <p>17 THE WITNESS: Per the 18 regulation, we're required to 19 monitor customer orders and 20 identify suspicious orders and 21 treat them accordingly. So 22 there's no way for us as a 23 wholesaler to specifically prevent 24 diversion which follow regulation.</p>	<p>1 A. I'm familiar with its 2 existence, yeah.</p> <p>3 Q. Have you ever read it?</p> <p>4 A. I'm sure at one point I've 5 read it.</p> <p>6 Q. Are you aware that the 7 Controlled Substance Act imposes upon 8 registrants a regulatory obligation to 9 maintain systems to prevent diversion?</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 THE WITNESS: We -- we 13 follow the regulation that 14 requires us to have a system in 15 place to identify suspicious 16 orders. And to prevent those from 17 being shipped and to report them 18 accordingly.</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. So then you agree with me 21 that there is a regulatory obligation for 22 wholesalers as registrants to maintain 23 systems to prevent diversion?</p> <p>24 MR. NICHOLAS: Object to the</p>

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<p>1 form.</p> <p>2 THE WITNESS: No, I wouldn't</p> <p>3 agree with that at all. We don't</p> <p>4 have enough information as a</p> <p>5 wholesaler to identify if</p> <p>6 diversion is happening. There's</p> <p>7 no way for us to know if a</p> <p>8 possibly suspicious order, if it</p> <p>9 was shipped, if it was diverted or</p> <p>10 not. We're shipping only to</p> <p>11 licensed entities. So we just</p> <p>12 don't have sufficient information</p> <p>13 to agree with that.</p> <p>14 BY MR. CLUFF:</p> <p>15 Q. I'm asking a different</p> <p>16 question. I'm asking about the existence</p> <p>17 of something, not whether or not you can</p> <p>18 comply with it as AmerisourceBergen.</p> <p>19 The question is: Is there a</p> <p>20 regulatory obligation that exists in the</p> <p>21 Controlled Substance Act for registrants</p> <p>22 to maintain systems designed to prevent</p> <p>23 diversion. Yes or no?</p> <p>24 MR. NICHOLAS: Object to the</p>	<p>1 definition of diversion in, we do</p> <p>2 the best we can to identify</p> <p>3 suspicious orders and to block</p> <p>4 them and report them to the DEA.</p> <p>5 So I would -- I would stipulate</p> <p>6 that.</p> <p>7 It's the DEA's</p> <p>8 responsibility to -- to look at</p> <p>9 diversion. It's our job to -- to</p> <p>10 identify suspicious orders and to</p> <p>11 treat them accordingly.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. So it's a wholesaler's job</p> <p>14 to identify suspicious orders and treat</p> <p>15 them accordingly?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form. Go ahead.</p> <p>18 THE WITNESS: Yeah. If we</p> <p>19 identify a suspicious order, we</p> <p>20 would -- we would reject it and</p> <p>21 report it.</p> <p>22 BY MR. CLUFF:</p> <p>23 Q. All suspicious orders that</p> <p>24 are identified are rejected?</p>
<p>1 form.</p> <p>2 THE WITNESS: The regulation</p> <p>3 might state that the regulation</p> <p>4 that we follow is designed to</p> <p>5 prevent diversion, but I'm not</p> <p>6 familiar enough with the</p> <p>7 regulation to -- to agree with</p> <p>8 that or not. I know that we</p> <p>9 identify suspicious orders.</p> <p>10 BY MR. CLUFF:</p> <p>11 Q. But it was also, I think,</p> <p>12 your testimony that said wholesalers just</p> <p>13 cannot prevent diversion, can they?</p> <p>14 MR. NICHOLAS: Object to the</p> <p>15 form. Go ahead.</p> <p>16 THE WITNESS: No. As a</p> <p>17 wholesaler, I would not say that</p> <p>18 it's our responsibility to prevent</p> <p>19 diversion. I would say that we</p> <p>20 are one component of a closed</p> <p>21 system for the distribution</p> <p>22 center -- for the distribution of</p> <p>23 controlled substance.</p> <p>24 So when you bring the</p>	<p>1 Page 123</p> <p>2 MR. NICHOLAS: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: If the order</p> <p>5 is found to be suspicious, we</p> <p>6 would reject it and report it.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. Based on your experience</p> <p>9 auditing diversion control practices at</p> <p>10 distribution centers, what constitutes a</p> <p>11 suspicious order?</p> <p>12 A. Okay. The definition of a</p> <p>13 suspicious order is an order of unusual</p> <p>14 size, frequency or deviating from the</p> <p>15 normal pattern.</p> <p>16 Q. Is that a definition you</p> <p>17 understand from reading federal</p> <p>18 regulations?</p> <p>19 A. Yes.</p> <p>20 Q. On a day-to-day basis, if</p> <p>21 you were auditing a distribution center's</p> <p>22 practice of identifying suspicious</p> <p>23 orders, what would you be looking at?</p> <p>24 A. I'm sorry, repeat that?</p> <p>Q. Sure.</p>

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<p>1 So you conducted audits of 2 distribution centers, right? 3 A. Under that role, yes. 4 Q. And distribution centers are 5 engaged in diversion control work? 6 MR. NICHOLAS: Object to the 7 form. 8 THE WITNESS: In a limited 9 capacity at the distribution 10 center level, yes.</p> <p>11 BY MR. CLUFF: 12 Q. Are they looking for 13 suspicious orders? 14 A. What time period are you 15 talking about? 16 Q. Between 2002 and 2015. 17 A. During that period of time, 18 I would say that the -- they were 19 managing their responsibilities under the 20 audit program. 21 But when you say that they 22 were monitoring for suspicious orders, I 23 believe during that period of time the 24 determination of an order to be</p>	<p>1 many years that I was doing that. 2 Q. Let's back up for a second. 3 You were in charge of 4 auditing the regulatory compliance of 5 distribution centers in the east region 6 between 2002 and 2015. Does that sound 7 right? 8 A. Yes. 9 Q. And one of the areas you 10 audited at the distribution center level 11 was diversion control, right? 12 A. Yes. 13 Q. Does diversion control 14 involve monitoring for suspicious orders? 15 MR. NICHOLAS: Object to the 16 form. 17 THE WITNESS: Yes, it does.</p> <p>18 BY MR. CLUFF: 19 Q. Were distribution centers 20 monitoring for suspicious orders as part 21 of their diversion control 22 responsibilities? 23 A. During that period of time 24 they were.</p>
<p>1 suspicious would be handled by a 2 different group. 3 Q. So I didn't say that they 4 were monitoring suspicious orders. I 5 asked you if they are monitoring for 6 suspicious orders at the distribution 7 center level between 2002 and 2015. 8 MR. NICHOLAS: Object to the 9 form and the commentary. Go 10 ahead. 11 THE WITNESS: Yeah, they 12 were -- they were performing 13 responsibilities that were related 14 to diversion identification. 15 BY MR. CLUFF: 16 Q. What are those? 17 A. Over that period of time, I 18 wasn't directly responsible for the 19 diversion program. So -- and it's 20 evolved. For a period of time it was -- 21 it spanned over years, so I couldn't tell 22 you specifically how that changed over 23 the years or specifically what 24 responsibilities they had. It's been so</p>	<p>1 Q. What were they doing to 2 monitor for suspicious orders? Actually, 3 strike that. 4 What portion of their 5 activities monitoring for suspicious 6 orders did you audit? 7 A. I audited to make sure that 8 the -- and again, this is something 9 that -- that was a long time ago and it's 10 evolved over time. Those questions 11 changed from 2002 to 2015, so those 12 responsibilities evolved. So I wouldn't 13 feel comfortable going into specific 14 responsibilities that the distribution 15 centers had with regards to that. 16 Q. Okay. When you say a long 17 time ago, your responsibility as a 18 regional supervisor or regional director 19 ended three years ago, right? 20 A. Yes. 21 Q. Is that a long period of 22 time to you? 23 MR. NICHOLAS: I'll object 24 to the form.</p>

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<p>1 THE WITNESS: Three years is 2 a long period of time. 3 BY MR. CLUFF: 4 Q. Compared to 13 years that 5 you were responsible for these jobs? 6 MR. NICHOLAS: Object to the 7 form. 8 THE WITNESS: Yes. 9 BY MR. CLUFF: 10 Q. So the time you spent doing 11 the job is essentially four times as long 12 as it's been since you've stopped doing 13 the job, right? 14 MR. NICHOLAS: Object to the 15 math. Go ahead. 16 THE WITNESS: Yes. 17 BY MR. CLUFF: 18 Q. Let's break it up though. 19 Maybe that will be easier. 20 So you started as the 21 regional supervisor over regulatory 22 affairs, or regulatory compliance in 23 2001, right? 24 A. I think it was after 2001.</p>	<p>1 2001 and 2005? 2 A. I'm not saying it didn't 3 happen. I just don't recall. It was too 4 long ago. 5 Q. Understood. 2005 to 2007, 6 do you recall performing audits during 7 that period of time? 8 A. I was performing audits 9 during that period of time. 10 Q. And that would still have 11 been in the east -- the east region 12 approximately? 13 A. I performed audits 14 throughout the country. 15 Q. Understood. So you didn't 16 necessarily audit only the region that 17 you were responsible for? 18 A. That's correct. 19 Q. Was that -- between 2001 and 20 2015, you conducted audits. During that 21 period of time would you have conducted 22 audits outside of your region for the 23 entire period of time or for some 24 specified period of time?</p>
<p>1 Q. You're right. I'm sorry, 2 2002? 3 A. Roughly. 4 Q. So how about between 2002 5 and 2005, that's a three-year period. 6 Were distribution centers during that 7 period of time monitoring for suspicious 8 orders? 9 A. It was too long ago. I just 10 don't recall. 11 Q. Do you recall auditing 12 distribution centers between 2001 and 13 2005? 14 A. I believe I audited 15 distribution centers during that time. 16 Q. Do you recall ever auditing 17 diversion control of a distribution 18 center between 2001 and 2005? 19 A. No, I don't recall auditing. 20 I don't recall what the audit checklist 21 entailed then. 22 Q. So you don't know one way or 23 the other today as you sit here whether 24 you audited diversion control between</p>	<p>1 A. I would say for the entire 2 period I conducted audits outside of my 3 region. 4 Q. Did you ever conduct any 5 audits in the south region? 6 A. Yes. 7 Q. When? 8 A. On and off throughout the 9 whole period. 10 Q. Between 2001 and 2005? 11 A. I believe it started in 12 2002. 13 Q. You're right. I keep saying 14 2002. My fault. 15 How about between 2002 and 16 2005? Did you conduct audits in the 17 south region? 18 A. I don't recall what the 19 schedule was, but I would assume. 20 Q. So it's likely that you 21 conducted audits in the south region 22 between 2002 and 2005? 23 A. Yeah, I would assume that I 24 conducted audits in the south region.</p>

<p style="text-align: right;">Page 134</p> <p>1 Q. How about between 2005 and 2 2007? Would you have conducted audits in 3 the south region between 2005 and 2007? 4 A. I don't recall. 5 Q. Earlier when I asked you if 6 you had performed audits in the south 7 region between 2002 and 2005, you said 8 you didn't recall the schedule. 9 There was a schedule for 10 audits? 11 A. Yes. 12 Q. Who was in charge of that 13 schedule? 14 A. I believe Steve Mays. 15 Q. And was it a written 16 schedule? 17 A. Yes. 18 Q. Was it a schedule that Steve 19 Mays created? 20 A. I believe he did during that 21 period of time. It was a long time ago. 22 Q. Okay. And it would have 23 been circulated to auditors somehow? 24 A. Yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 somewhere in the world of 2 AmerisourceBergen's documents, correct? 3 MR. NICHOLAS: Object to the 4 form. 5 THE WITNESS: I would 6 assume. 7 MR. NICHOLAS: Go ahead. 8 THE WITNESS: I would 9 assume. 10 BY MR. CLUFF: 11 Q. You don't have any reason to 12 believe that they would have been 13 destroyed, right? 14 A. No. 15 Q. From that schedule of 16 audits, I would be able to determine who 17 audited distribution centers in the south 18 region in any given period of time, 19 correct? 20 A. Yeah, I would assume so. 21 Q. And the same thing would be 22 true for the north region, right? 23 A. Yes. 24 Q. And the south region and the</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. Would that have been by 2 e-mail? 3 A. I don't recall. 4 Q. Was there another way that 5 Steve Mays communicated scheduling of 6 audits to auditors? 7 A. It was communicated to us 8 during team meetings. I believe the 9 e-mail probably would have been utilized. 10 Q. So there were meetings about 11 audits as well? 12 A. We would have periodic team 13 meetings. 14 Q. So you would have discussed 15 the schedules at team meetings. Would 16 you have received the paper copy of an 17 audit during the team meeting? Excuse 18 me, a paper copy of a schedule during a 19 team meeting? 20 A. I assume so. 21 Q. And you said e-mail would 22 have been utilized as well, right? 23 A. I would assume so. 24 Q. So those should exist</p>	<p style="text-align: right;">Page 137</p> <p>1 west region? 2 A. Yes. 3 Q. Were those an important 4 documents in your work as an auditor? 5 A. Well, they laid out our 6 audit schedule for the next year. 7 Q. So it was a yearly schedule? 8 A. To my recollection it was. 9 Q. Do you recall, based on your 10 work as an auditor working under Steve 11 Mays, how the schedule was set up? 12 That's a bad question. 13 Do you recall in your work 14 as an auditor working under Steve Mays, 15 how he prioritized which distribution 16 centers should be audited? 17 MR. NICHOLAS: Object to the 18 form. 19 Go ahead. 20 THE WITNESS: No, I don't 21 recall how he formulated his audit 22 schedules. 23 BY MR. CLUFF: 24 Q. Are you aware of any</p>

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<p>1 policies or procedures that dictated the 2 frequency with which audits should 3 happen? 4 A. No, I don't recall. 5 Q. Do you know if one ever 6 existed? 7 A. If what existed? 8 Q. A policy about the frequency 9 of audits.</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 THE WITNESS: I don't recall 13 if a specific policy existed 14 regarding the frequency of audits. 15 It may have.</p> <p>16 BY MR. CLUFF:</p> <p>17 Q. Can you give me an estimate 18 on how frequently distribution centers 19 were audited?</p> <p>20 A. It would vary.</p> <p>21 Q. What would it vary based on?</p> <p>22 MR. NICHOLAS: Object to the 23 form.</p> <p>24 THE WITNESS: What period of</p>	<p>1 during that -- over that period of time. 2 Q. When did you become the 3 regional director? 4 A. Title changed to director 5 from supervisor at some point. I don't 6 recall. 7 Q. The job responsibilities 8 didn't change? 9 A. No. 10 Q. And then when did you become 11 the regional director? 12 A. Again, I don't recall. 13 Q. Sometime in the last five 14 years? 15 A. I don't recall. 16 Q. Did your job 17 responsibilities change? 18 A. From the time that I became 19 a director versus prior to that? I'm not 20 sure I understand the question. 21 Q. You were a supervisor 22 originally and then became a director, 23 you said, right? 24 A. Correct.</p>
<p>1 time are we talking about? 2 BY MR. CLUFF:</p> <p>3 Q. Let's do 2002 to 2005.</p> <p>4 A. I have no recollection.</p> <p>5 Q. You couldn't say whether it 6 was yearly?</p> <p>7 A. No.</p> <p>8 Q. How about from 2005 to 2007? 9 How frequently were audits conducted?</p> <p>10 A. Again, I don't recall.</p> <p>11 Q. How about after 2007, say 12 2007 to 2012?</p> <p>13 A. I believe during that period 14 it was normally an annual audit.</p> <p>15 Q. Is there some reason that 16 you recall why, after 2007, that it was 17 an annual audit but you don't recall any 18 schedule of audits before 2007?</p> <p>19 A. The most recent years that I 20 was regional director, we were generally 21 conducting annual audits of our 22 distribution centers. I don't recall 23 what it was, when you go back that far -- 24 I just don't recall what the schedule was</p>	<p>1 Q. And there was no change in 2 your job responsibilities? 3 A. No. 4 Q. Okay. And then from a 5 director you became a regional director. 6 Was there any change in your 7 responsibilities at that point in time? 8 A. No. We were always -- we 9 were regional manager, I think, and then 10 we became -- I think it was either 11 manager or supervisor, and then we became 12 a regional director. So no change in 13 responsibilities to my recollection based 14 on that title change. 15 Q. And so your work as a 16 regional director takes you through the 17 end of 2015 or some time in 2015? 18 A. Takes me to February 2015. 19 Q. Okay. And then what was 20 your job in February of 2015? 21 A. I was reassigned to director 22 of diversion control. 23 Q. We'll pick up there in a 24 little bit. Let's go back to this audit</p>

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<p>1 schedule.</p> <p>2 Was there a policy or</p> <p>3 procedure in 2007 that you can recall</p> <p>4 about the frequency of audits at</p> <p>5 distribution centers?</p> <p>6 A. In the 2007 time frame, I</p> <p>7 don't remember what the policy contained</p> <p>8 with regards to frequency of audits. It</p> <p>9 was too long ago. It was a lot of years</p> <p>10 ago.</p> <p>11 Q. But there was a policy about</p> <p>12 audits?</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: There were</p> <p>16 general policies that were related</p> <p>17 to audits, yes.</p> <p>18 BY MR. CLUFF:</p> <p>19 Q. Do you remember any of the</p> <p>20 numbers of the policies, like 5.1?</p> <p>21 A. No.</p> <p>22 Q. Isn't that a document that</p> <p>23 you would have worked with pretty</p> <p>24 frequently?</p>	<p>1 exist?</p> <p>2 A. No, I didn't say that.</p> <p>3 Q. So it existed before 2007</p> <p>4 and then it was created in 2007?</p> <p>5 MR. NICHOLAS: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: I would assume</p> <p>8 that it existed, you know, from a</p> <p>9 very early point. But I don't</p> <p>10 know when it became -- you know,</p> <p>11 when it was created. I have no</p> <p>12 idea. It was too long ago. I</p> <p>13 wasn't responsible for writing</p> <p>14 policies at that period of time.</p> <p>15 BY MR. CLUFF:</p> <p>16 Q. I just asked you. Do you</p> <p>17 recall if there was a policy or procedure</p> <p>18 after 2007 that governed the frequency of</p> <p>19 audits. And I'm reading from the live</p> <p>20 feed here, and your answer is, "I believe</p> <p>21 at some point post 2007 a policy was</p> <p>22 created."</p> <p>23 Did a policy exist before it</p> <p>24 was created sometime after 2007?</p>
<p>1 A. 5.1?</p> <p>2 Q. No. Just the policies and</p> <p>3 procedures governing audits.</p> <p>4 A. Yes.</p> <p>5 Q. And you don't recall the</p> <p>6 number of the policy or procedure?</p> <p>7 A. We had a lot of policies and</p> <p>8 procedures. So I don't recall specific</p> <p>9 numbers of the policies.</p> <p>10 Q. Do you recall if there was a</p> <p>11 policy or procedure after 2007 that</p> <p>12 governed the frequency of audits?</p> <p>13 A. I believe at some point post</p> <p>14 2007 a policy was created that was</p> <p>15 related to the frequency of audits. But</p> <p>16 I don't remember when that was created.</p> <p>17 Q. So after 2007 your</p> <p>18 recollection is that a policy was created</p> <p>19 about the frequency of audits?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: I believe so.</p> <p>23 BY MR. CLUFF:</p> <p>24 Q. So before that it didn't</p>	<p>1 MR. NICHOLAS: Object to the</p> <p>2 tone and the bickering.</p> <p>3 Go ahead.</p> <p>4 THE WITNESS: I would</p> <p>5 stipulate that I don't recall when</p> <p>6 that policy that governed</p> <p>7 frequency of audits was created.</p> <p>8 I just know that it existed post</p> <p>9 2007, because I don't remember</p> <p>10 prior to that.</p> <p>11 BY MR. CLUFF:</p> <p>12 Q. And you don't recall its</p> <p>13 existence before that?</p> <p>14 A. I'm not saying it didn't</p> <p>15 exist. I just don't remember the audit</p> <p>16 process during that period of time. That</p> <p>17 was a long time ago.</p> <p>18 Q. So you don't recall it</p> <p>19 existing?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form and the bickering.</p> <p>22 Go ahead.</p> <p>23 THE WITNESS: I just don't</p> <p>24 recall.</p>

1 BY MR. CLUFF: 2 Q. Do you have a general 3 recollection of this policy that you now 4 recall sometime after 2007 about the 5 frequency of audits, what did it specify 6 about the frequency of audits? How often 7 should they happen? 8 MR. NICHOLAS: Object to the 9 form. 10 THE WITNESS: I recall there 11 was generally an annual 12 requirement for a distribution 13 center to be audited. 14 BY MR. CLUFF: 15 Q. Was that the same all the 16 way through the end -- or from 2000 -- 17 let me back up. That was poorly worded. 18 Was that policy consistent 19 from the time that you can recall it 20 existing through 2015? 21 MR. NICHOLAS: Object to the 22 form. 23 THE WITNESS: Yeah, I 24 remember that policy existed up to	Page 146 1 Q. Do you understand my 2 question? 3 A. I would say at the time I 4 left the position, I believe there was a 5 policy that governed annual audits of 6 distribution centers. 7 Q. So before we started talking 8 about the frequency, we were talking 9 about diversion control and your audit of 10 diversion control. And also the 11 distribution centers that you recall 12 auditing. 13 So from 2002 to 2005 you 14 said you recall -- well, you don't 15 specifically recall. But that you assume 16 you audited distribution centers in the 17 south region, correct? 18 A. For what period of time? 19 Q. 2002 to 2005. 20 A. I assume during that period 21 I audited the south region at some point. 22 Q. How about 2005 to 2007. 23 Would you have audited distribution 24 centers in the south region?
1 the time I left that position. 2 BY MR. CLUFF: 3 Q. Excuse me. Are you aware of 4 any changes to that policy regarding the 5 frequency since you left that position? 6 A. No. 7 Q. So it's your best 8 understanding today that distribution 9 centers are still audited on an annual 10 basis? 11 A. That responsibility has 12 transitioned to a different team. So I 13 can't really speak to how often 14 distribution centers are audited today. 15 Lots of changes have been made to that 16 program. 17 Q. But your general 18 understanding is that the policy calls 19 for them to be audited annually? 20 MR. NICHOLAS: Object to the 21 form. Make it a question. You 22 are just making statements. Go 23 ahead. 24 BY MR. CLUFF:	Page 147 1 A. I would assume. 2 Q. Do you recall at any point 3 between 2002 and 2015 auditing 4 distribution centers in Florida? 5 A. Yes. I've audited the 6 Orlando distribution center during that 7 period of time. 8 Q. Do you recall the date that 9 you audited the Orlando distribution 10 center? 11 A. No, I don't. 12 Q. Do you recall auditing your 13 Orlando distribution center between 2002 14 and 2005? 15 A. No, not specifically. 16 Q. Between 2005 and 2007? 17 A. Nope. 18 Q. 2007 to 2012? 19 A. I don't remember specific 20 dates that I may have audited the Orlando 21 DC. 22 Q. 2012 to 2015? 23 A. (Gesturing.) 24 Q. So the only record --

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1 THE COURT REPORTER: I 2 didn't get an answer, I'm sorry. 3 MR. NICHOLAS: Yeah, let him 4 answer. You are making 5 statements. Let him answer some 6 questions. 7 THE WITNESS: No. No, I 8 don't recall specific dates during 9 that 13-year period that I audited 10 the Orlando distribution center. 11 BY MR. CLUFF: 12 Q. So the only record of your 13 audit of the Orlando distribution center 14 would come from the audit schedule, 15 correct? 16 MR. NICHOLAS: Object to the 17 form. Go ahead. 18 THE WITNESS: Well, there 19 would be a scheduling that would 20 be the corresponding report that 21 was generated as a result of the 22 audit. 23 BY MR. CLUFF: 24 Q. Do you recall writing a	1 audited the Orlando distribution 2 center. 3 MR. NICHOLAS: Do you want 4 to excuse him so that he's not -- 5 you don't -- so you don't feel 6 he's hearing anything that he 7 shouldn't hear -- 8 MR. CLUFF: No. 9 MR. NICHOLAS: -- because we 10 can do that if we want to have an 11 argument. 12 Do you want to do that? 13 MR. CLUFF: Bob, he said 14 that the two ways that we could 15 find that out was from the audit 16 schedule and from his report of 17 the audit. 18 And I asked him a 19 foundational question regarding 20 his recollection about whether he 21 wrote a report. That's a purely 22 foundational factual question. 23 MR. NICHOLAS: You don't 24 know what my objection is.
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1 report about your audit of the Orlando 2 distribution center? 3 MR. NICHOLAS: I'm going to 4 interpose an objection to this 5 continuing line of questioning to 6 the extent that we are starting to 7 get clearly outside of the scope. 8 MR. CLUFF: Well, he is a 9 fact witness. There's no scope. 10 I'm asking about his recollection. 11 MR. NICHOLAS: I -- I -- 12 I've explained my -- that's fine. 13 MR. CLUFF: I know, I 14 understand that you didn't finish. 15 I'm interrupting you because 16 you're making an improper 17 objection. 18 MR. NICHOLAS: Well, this is 19 not -- 20 MR. CLUFF: He's here today 21 to talk about his recollection of 22 facts. He just said that there 23 are two ways that we could figure 24 out whether he had, and when,	1 MR. CLUFF: Okay. Make your 2 objection. 3 MR. NICHOLAS: Do you know 4 what it is? Maybe if you knew -- 5 if you know what it -- 6 MR. CLUFF: You said outside 7 of the scope. He's not a 30(b)(6) 8 witness. 9 MR. NICHOLAS: Why don't 10 you -- no -- well, that wasn't 11 going to be the nature of my 12 objection, Sterling. 13 MR. CLUFF: You said outside 14 of the scope, Bob. What else is 15 the nature of a scope objection? 16 MR. NICHOLAS: We are 17 talking about Ohio. We are 18 talking about -- we're talking 19 about -- he is a fact witness and 20 at some point you are just moving 21 into -- into a different case with 22 different facts. Okay. 23 So I'm just saying that 24 you're getting to the point where

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<p>1 you are starting to ask about 2 things that are unrelated to this 3 particular lawsuit. That's all. 4 Had nothing to do with 5 30(b)(6) or facts, so if you can 6 at least -- you can agree or 7 disagree, Sterling, but you have 8 to at least let me complete my 9 objection. Then you can respond. 10 MR. CLUFF: Great. 11 MR. NICHOLAS: Now you can 12 respond.</p> <p>13 BY MR. CLUFF:</p> <p>14 Q. So if I understood your 15 testimony correctly, there are two ways 16 we could figure out when you audited the 17 Orlando distribution center, one is from 18 the audit schedule, right?</p> <p>19 And then you said, "Or a 20 report."</p> <p>21 Do you recall writing a 22 report about an audit of the Orlando 23 distribution center?</p> <p>24 A. At some point I completed a</p>	<p>1 write up those audit reports? 2 A. After the audit was over, it 3 wouldn't take too long. We had to 4 provide a preliminary report pretty quick 5 at the conclusion of the audit. Within a 6 couple days. Within -- within one day of 7 the audit concluding. 8 Q. And what -- what kind of 9 information would you put into a report? 10 A. The preliminary report would 11 contain all of the findings that were 12 associated with that audit. 13 Q. What kind of findings would 14 you include? 15 A. There were two audits that 16 we would conduct: The security 17 regulatory audit and the OSHA audit. So 18 it would have separate findings for each 19 of those areas. 20 Q. The OSHA audit would be like 21 workplace safety stuff? 22 A. Correct. 23 Q. And then the regulatory 24 audit, that would have been for the</p>
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<p>1 report regarding -- with regards to the 2 audit of the Orlando DC. 3 Q. Was it a regular practice 4 for auditors to write reports about their 5 audit of distribution centers? 6 A. Yes, that was -- that was 7 part of the audit process. They would -- 8 we would generate reports as a result of 9 the audit. 10 Q. We talked with Steve Mays, 11 and he -- he said that there was an audit 12 checklist, and you've mentioned an audit 13 checklist. I think you said there's 14 something like 200 questions? 15 A. Over 200. 16 Q. That would have been a big 17 stack of paper, correct? 18 Is the report you're talking 19 about, is that different than the 20 checklist that you would have gone 21 through while you were at a distribution 22 center? 23 A. Yes. 24 Q. How long did it take to</p>	<p>1 regulations that govern the distribution 2 of controlled substances, correct? 3 A. As well as prescription 4 drugs, correct. 5 Q. Do you think you may have 6 audited the Orlando distribution center 7 more than once? 8 MR. NICHOLAS: Object to the 9 form. Go ahead. 10 THE WITNESS: I recall 11 that -- that I did not audit the 12 Orlando DC too many times. I 13 remember one time specifically 14 that I audited. But I don't 15 remember -- I don't think I 16 audited that division too many 17 times. 18 BY MR. CLUFF: 19 Q. So more than once? 20 A. I'm not sure. 21 Q. You said many times. 22 MR. NICHOLAS: He said he 23 didn't think it was -- 24 MR. CLUFF: Bob, I don't</p>

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<p>1 need you to testify for him. If 2 he wants to clarify his 3 statement --</p> <p>4 MR. NICHOLAS: I'm just --</p> <p>5 MR. CLUFF: Bob, it's not 6 your job to clarify his statement 7 for him. That's his job.</p> <p>8 MR. NICHOLAS: You have to 9 stop asking misleading questions.</p> <p>10 MR. CLUFF: Bob, I did not 11 ask a misleading question. I 12 asked a question based on my 13 understanding.</p> <p>14 BY MR. CLUFF:</p> <p>15 Q. If it was an incorrect 16 understanding, sir, please clarify it for 17 me. And your lawyer is not allowed to 18 testify for you.</p> <p>19 MR. CLUFF: Do you 20 understand that today?</p> <p>21 MR. NICHOLAS: Most of the 22 testimony today has been by you.</p> <p>23 MR. CLUFF: Bob.</p> <p>24 MR. NICHOLAS: Go ahead.</p>	<p>1 specifically recall one instance. When 2 was that?</p> <p>3 A. I don't recall.</p> <p>4 Q. Was it between 2002 and 5 2005?</p> <p>6 A. I have no recollection of 7 when that occurred.</p> <p>8 Q. But you very specifically 9 recall it?</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 THE WITNESS: I recall 13 auditing the -- the Orlando 14 distribution center at one point. 15 I don't remember if there were 16 more.</p> <p>17 BY MR. CLUFF:</p> <p>18 Q. So you -- do you recall 19 going there to the Orlando distribution 20 center any other times when you weren't 21 conducting an audit?</p> <p>22 A. I think I went there once 23 for a system conversion.</p> <p>24 Q. What's a system conversion?</p>
Page 159	Page 161
<p>1 BY MR. CLUFF:</p> <p>2 Q. I misspoke.</p> <p>3 You said you recall one 4 specific instance, if I'm remembering 5 your testimony accurately, of auditing 6 the Orlando distribution center, correct?</p> <p>7 And I asked you if you remembered more. 8 Do you remember more?</p> <p>9 A. There might -- there might 10 have been between one and three times 11 that I audited. I know for a fact I 12 audited the Orlando DC one time. I 13 remember that specifically. There may 14 have been other instances, but I couldn't 15 confirm that here. Like I said, it was a 16 long period of time. And I audited many 17 distribution centers.</p> <p>18 Q. So definitely one time.</p> <p>19 Possibly one to three times.</p> <p>20 A. Correct.</p> <p>21 Q. We have to do that. We have 22 to get an audible answer from you. Thank 23 you.</p> <p>24 So you seem to very</p>	<p>1 A. We -- we changed systems 2 from time to time. I believe that it was 3 a transition from Distrack to Metastorm. 4 So that's a system conversion systems 5 used to operate the distribution center, 6 maintain inventories. I believe I spent 7 a week there as the security responsible 8 individual during that conversion.</p> <p>9 Q. When would that have been?</p> <p>10 A. I don't recall.</p> <p>11 Q. Was it after 2007?</p> <p>12 A. I really can't remember.</p> <p>13 Q. Is the Metatrack system 14 still in use?</p> <p>15 A. It was Distrack to 16 Metastorm. And no, it's no longer in 17 use.</p> <p>18 Q. So med -- okay. So is 19 Metastorm still in use?</p> <p>20 A. No.</p> <p>21 Q. Do you know when it was 22 retired?</p> <p>23 A. We transitioned from 24 Metastorm to SAP. I don't recall the --</p>

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<p>1 the specific schedule that that occurred.</p> <p>2 Q. Do you recall that that</p> <p>3 happened in 2012?</p> <p>4 A. I don't recall.</p> <p>5 Q. Do you recall if your audit</p> <p>6 was before or after this conversion from</p> <p>7 Distrack to Metastorm?</p> <p>8 A. No.</p> <p>9 Q. Do you recall if it was</p> <p>10 before or after the conversion from that</p> <p>11 system to SAP?</p> <p>12 A. Well, the -- the conversion</p> <p>13 from Metastorm to SAP occurred after</p> <p>14 that. So it was definitely before the</p> <p>15 conversion to SAP.</p> <p>16 Q. So if we could pinpoint on a</p> <p>17 calendar when the conversion from</p> <p>18 Metastorm to SAP was, we could narrow</p> <p>19 down the time period that you audited the</p> <p>20 Orlando distribution center, right?</p> <p>21 A. We can state it would have</p> <p>22 been before that period.</p> <p>23 Q. But you have no recollection</p> <p>24 when the SAP system went into effect?</p>	<p>1 A. I'm sure that one was filled</p> <p>2 out since I conducted an audit.</p> <p>3 Q. Do you remember if it was</p> <p>4 before or after the license was suspended</p> <p>5 in Orlando?</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you remember if there</p> <p>8 were any specific procedures or policies</p> <p>9 that Orlando was faulting -- following</p> <p>10 during that audit that were implemented</p> <p>11 as a result of the settlement with the</p> <p>12 DEA in 2007?</p> <p>13 A. No.</p> <p>14 Q. Is that something you would</p> <p>15 have audited if they had been in place?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: If a change</p> <p>19 was made to the audit protocol</p> <p>20 then I would have followed it</p> <p>21 during the audit.</p> <p>22 BY MR. CLUFF:</p> <p>23 Q. If there were policies or</p> <p>24 procedures that the Orlando distribution</p>
<p>1 A. No, not specifically.</p> <p>2 Q. Do you -- do you know if it</p> <p>3 was before 2015?</p> <p>4 A. Yes, it was before 2015.</p> <p>5 Q. So you audited it, audited</p> <p>6 the Orlando distribution center before</p> <p>7 2015?</p> <p>8 A. That's correct.</p> <p>9 Q. This audit of the Orlando</p> <p>10 distribution center that you so</p> <p>11 specifically recall, why do you</p> <p>12 specifically recall it?</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: I just</p> <p>16 remember being there.</p> <p>17 BY MR. CLUFF:</p> <p>18 Q. What do you remember about</p> <p>19 being there?</p> <p>20 A. I remember being in Orlando.</p> <p>21 Q. That's it?</p> <p>22 A. That's it.</p> <p>23 Q. Do you remember filling out</p> <p>24 an audit checklist while you were there?</p>	<p>1 center was following as a result of the</p> <p>2 settlement with the DEA, would you have</p> <p>3 audited those?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: It would</p> <p>7 depend if it was part of the audit</p> <p>8 checklist.</p> <p>9 BY MR. CLUFF:</p> <p>10 Q. Are you familiar with why</p> <p>11 the Orlando distribution center lost its</p> <p>12 DEA license?</p> <p>13 A. I have a general</p> <p>14 understanding that the DEA suspended the</p> <p>15 license because they made the allegation</p> <p>16 that we were not following the</p> <p>17 regulation.</p> <p>18 Q. Which regulation?</p> <p>19 A. To report and identify</p> <p>20 suspicious orders.</p> <p>21 Q. Where did you obtain that</p> <p>22 general understanding?</p> <p>23 A. During the occurrence.</p> <p>24 Q. So during the suspension of</p>

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<p>1 the Orlando distribution center's license 2 you became aware why the registration was 3 suspended?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: Yeah, I recall 7 the general allegation.</p> <p>8 BY MR. CLUFF:</p> <p>9 Q. Where did you hear about 10 that from?</p> <p>11 A. I don't recall. Big news 12 back then.</p> <p>13 Q. It was big news. People 14 talking about it in the halls?</p> <p>15 MR. NICHOLAS: Object to the 16 form and the commentary.</p> <p>17 Go ahead.</p> <p>18 THE WITNESS: There was a 19 lot of discussions surrounding it.</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. Were there meetings about 22 it?</p> <p>23 A. Yes.</p> <p>24 Q. Were reports written about</p>	<p>1 been completed or were in process, 2 and I was not part of that -- that 3 process.</p> <p>4 BY MR. CLUFF:</p> <p>5 Q. When I asked you if reports 6 were written about the suspension, you 7 said you assume so.</p> <p>8 Why do you assume that they 9 would have been written?</p> <p>10 MR. NICHOLAS: Object to the 11 form. And of course, Mr. Cluff 12 will be the first to tell you that 13 you shouldn't assume in an answer 14 to a question.</p> <p>15 So go ahead.</p> <p>16 THE WITNESS: When you have 17 an occurrence like that, I would 18 assume that it would, you know, 19 involve a chain reaction and a lot 20 of different departments would be 21 involved in handling the 22 suspension.</p> <p>23 So I would assume, as a 24 previous auditor, that reports</p>
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<p>1 it?</p> <p>2 A. None that I'm specifically 3 aware of.</p> <p>4 Q. Do you understand that 5 reports may have been written about it?</p> <p>6 MR. NICHOLAS: Well, I'll 7 object to the form of that 8 question.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: I assume so. 11 None that I was directly involved 12 in -- involved with.</p> <p>13 BY MR. CLUFF:</p> <p>14 Q. You wouldn't have 15 participated in discussing the suspension 16 in your role as an auditor?</p> <p>17 MR. NICHOLAS: Object to the 18 form.</p> <p>19 THE WITNESS: You know, 20 right when that happened, my 21 father passed away, and I had to 22 take a leave of absence. So when 23 I got back, a lot of that -- a lot 24 of those changes had been -- had</p>	<p>1 would have been generated as a 2 result of the action taken against 3 us.</p> <p>4 BY MR. CLUFF:</p> <p>5 Q. So based on your 13 years of 6 experience as an auditor, your 7 understanding is that an event like the 8 suspension of a distribution center's 9 license would result in the creation of 10 reports about why the suspension 11 occurred?</p> <p>12 MR. NICHOLAS: Is that a 13 question?</p> <p>14 MR. CLUFF: I'm exploring 15 his understanding, Bob.</p> <p>16 MR. NICHOLAS: I just want 17 to hear it in the form of a 18 question. You're making a 19 statement.</p> <p>20 MR. PIFKO: Just say "is 21 that correct."</p> <p>22 BY MR. CLUFF:</p> <p>23 Q. Is that correct?</p> <p>24 MR. NICHOLAS: Yeah, say "is</p>

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<p>1 that correct?" Okay. And now I 2 can say object to the form of the 3 question.</p> <p>4 THE WITNESS: Yeah, I would 5 assume that a lot of documentation 6 has generated as a result of the 7 suspension. Not necessarily in 8 report form, but a lot of general 9 documentation. I wasn't a part of 10 it. It was all handled above me. 11 So I can't really speak 12 specifically about what 13 documentation was generated.</p> <p>14 BY MR. CLUFF:</p> <p>15 Q. What kind of documentation 16 are we talking about -- or are you 17 talking about?</p> <p>18 MR. NICHOLAS: I'll object 19 to the form of the question and 20 caution the witness not to make 21 assumptions. He should answer 22 questions --</p> <p>23 MR. CLUFF: Bob, you've 24 really got to stop coaching his</p>	<p>1 documentation was generated as a result 2 of the suspension."</p> <p>3 Based on your experience, 4 13 years as an auditor at 5 AmerisourceBergen, what kind of 6 documentation would you have been 7 referring to when you testified to that?</p> <p>8 MR. NICHOLAS: Object to the 9 form.</p> <p>10 THE WITNESS: To clarify, I 11 wasn't exposed to documentation or 12 at least I don't recall 13 documentation that I was 14 specifically exposed to. So I'm 15 assuming that documentation was 16 generated. But I can't speak to 17 any detailed documentation that I 18 was exposed to.</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. I'm not asking about a 21 detailed distribution of documentation. 22 I'm asking, based on your experience as 23 an auditor for 13 years at 24 AmerisourceBergen, what kind of</p>
<p>1 witness. He already testified 2 based on his work experience as an 3 auditor -- it's in the testimony. 4 You can read it -- that he 5 understands that reports like this 6 or documentation about a situation 7 like this would have been created. 8 I get to explore his 9 understanding of that, Bob. You 10 can make your objection. You can 11 say form. You can say foundation. 12 You can say whatever you want. 13 But don't tell this witness that 14 he's not allowed to assume. 15 That's coaching.</p> <p>16 MR. NICHOLAS: You have to 17 stop asking misleading questions. 18 Go ahead. Answer the 19 question if you can.</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. Let me ask this question a 22 different way.</p> <p>23 You previously said, "Yeah, 24 I would assume that a lot of</p>	<p>1 documentation you understand would have 2 been created about the suspension in 3 Orlando?</p> <p>4 A. I have no idea.</p> <p>5 Q. But you anticipate, based on 6 your experience, 13 years at 7 AmerisourceBergen, that documentation 8 would have existed?</p> <p>9 MR. NICHOLAS: Hold on. 10 Could you ask it in the form of a 11 question? It's not Jeopardy. You 12 just made a statement. Ask him a 13 question. Say "is that correct" 14 or "do you agree."</p> <p>15 MR. CLUFF: I appreciate the 16 coaching, Bob. I really do. 17 Thank you.</p> <p>18 MR. NICHOLAS: Well, your 19 own guy told you you have to ask 20 in a form of a question.</p> <p>21 MR. CLUFF: Bob, seriously? 22 Stop. Just stop, Bob. Make your 23 objection for the record. And I 24 will clarify my question if I need</p>

<p>1 to.</p> <p>2 MR. NICHOLAS: Objection.</p> <p>3 Objection. No question has been</p> <p>4 stated.</p> <p>5 BY MR. CLUFF:</p> <p>6 Q. Do you anticipate based on</p> <p>7 your experience as an auditor at</p> <p>8 AmerisourceBergen for 13 years that</p> <p>9 documentation would have been created</p> <p>10 about the suspension?</p> <p>11 A. I would assume that</p> <p>12 documentation was generated as a result</p> <p>13 of the suspension.</p> <p>14 Q. Do you have an</p> <p>15 understanding, based on your 13 years of</p> <p>16 experience at AmerisourceBergen, which</p> <p>17 departments at AmerisourceBergen would</p> <p>18 have been creating that documentation?</p> <p>19 A. The departments that were</p> <p>20 responsible for regulatory compliance and</p> <p>21 action like that would have been legal</p> <p>22 and corporate security regulatory</p> <p>23 affairs.</p> <p>24 Q. Setting legal aside, what --</p>	<p>Page 174</p> <p>1 Q. Did you ever discuss the</p> <p>2 suspension with Cathy Marcum?</p> <p>3 A. Same answer. I have no</p> <p>4 recollection of it.</p> <p>5 Q. Did you ever discuss</p> <p>6 suspension with Erica Burwell?</p> <p>7 A. No recollection.</p> <p>8 Q. Do you know if anybody</p> <p>9 discussed the suspension with Erica</p> <p>10 Burwell?</p> <p>11 A. Not that I recall.</p> <p>12 Q. So you previously</p> <p>13 testified -- and I want to make sure I</p> <p>14 understand your testimony correctly --</p> <p>15 that the suspension was a big event for</p> <p>16 AmerisourceBergen?</p> <p>17 MR. NICHOLAS: Objection.</p> <p>18 No --</p> <p>19 BY MR. CLUFF:</p> <p>20 Q. Is that correct?</p> <p>21 MR. NICHOLAS: Good.</p> <p>22 THE WITNESS: Yes, it was.</p> <p>23 BY MR. CLUFF:</p> <p>24 Q. Is it also your testimony</p>
<p>Page 175</p> <p>1 what aspects of the regulatory affairs</p> <p>2 and corporate security department would</p> <p>3 have been responsible for documenting or</p> <p>4 producing documentation about the</p> <p>5 suspension?</p> <p>6 A. I don't know. Like I said</p> <p>7 it was happening over my head, and I</p> <p>8 wasn't directly involved in it. So I</p> <p>9 can't really state any specific</p> <p>10 documentation was generated or who</p> <p>11 generated it or who was involved in it.</p> <p>12 Q. Do you know if your boss,</p> <p>13 Steve Mays, ever participated in any</p> <p>14 discussions about the suspension in</p> <p>15 Orlando?</p> <p>16 A. I don't recall.</p> <p>17 Q. Did you ever talk to Greg</p> <p>18 Madsen about the suspension in Ohio?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you not recall or did it</p> <p>21 not happen?</p> <p>22 A. I think I answered the</p> <p>23 question. I don't remember. It was a</p> <p>24 long time ago.</p>	<p>Page 177</p> <p>1 that you can't recall whether or not</p> <p>2 anybody talked about the suspension at</p> <p>3 your level in 2007?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: I'm sure there</p> <p>7 was discussion, but I just don't</p> <p>8 recall any specific conversations</p> <p>9 during that period of time.</p> <p>10 BY MR. CLUFF:</p> <p>11 Q. Do you know whether or not</p> <p>12 anybody looked at the audit history for</p> <p>13 Orlando after the suspension occurred?</p> <p>14 A. No.</p> <p>15 MR. NICHOLAS: Object to the</p> <p>16 form.</p> <p>17 BY MR. CLUFF:</p> <p>18 Q. Do you know whether or not</p> <p>19 anybody looked at the reports that were</p> <p>20 written about Orlando after the</p> <p>21 suspension occurred?</p> <p>22 MR. NICHOLAS: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: No.</p>

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<p>1 BY MR. CLUFF:</p> <p>2 Q. Do you know whose</p> <p>3 responsibility it was to review audit</p> <p>4 reports after they were created in</p> <p>5 general between 2002 and 2005?</p> <p>6 A. I believe that would have</p> <p>7 been Steve Mays during that period.</p> <p>8 Q. How about between 2005 and</p> <p>9 2007?</p> <p>10 A. Well, it was several people</p> <p>11 that were involved. Steve Mays would</p> <p>12 have been the one responsible for the</p> <p>13 audit, assigning the audit. He would</p> <p>14 have been the first one that we would</p> <p>15 have discussed it with.</p> <p>16 Q. So Steve Mays was</p> <p>17 responsible for assigning the audit. Did</p> <p>18 I get that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And there were a number of</p> <p>21 people involved, I think you said,</p> <p>22 correct?</p> <p>23 A. Yeah, in the -- in the</p> <p>24 review process there was, yes.</p>	<p>1 A. Well, Chris was our VP over</p> <p>2 CSRA, so I can't confirm, but he</p> <p>3 certainly was concerned about the audit</p> <p>4 findings.</p> <p>5 Q. You started working with</p> <p>6 Chris Zimmerman in '96 at Bergen</p> <p>7 Brunswick, correct?</p> <p>8 A. Yes.</p> <p>9 Q. So you've worked with him</p> <p>10 through your entire career?</p> <p>11 A. That's a correct statement.</p> <p>12 Q. Are you pretty familiar with</p> <p>13 his work habits?</p> <p>14 MR. NICHOLAS: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: I don't know</p> <p>17 what you mean by work habits.</p> <p>18 BY MR. CLUFF:</p> <p>19 Q. Does he check his e-mails</p> <p>20 regularly?</p> <p>21 A. Yes.</p> <p>22 Q. Does he document the things</p> <p>23 that he's concerned about?</p> <p>24 MR. NICHOLAS: Object to the</p>
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<p>1 Q. But he would have been</p> <p>2 ultimately responsible for reviewing</p> <p>3 them, because he assigned them; is that</p> <p>4 right?</p> <p>5 A. Well, he would have been the</p> <p>6 first step above the auditor that we</p> <p>7 would have covered the findings with</p> <p>8 initially concluding that. But then we</p> <p>9 would have -- we would run through those</p> <p>10 findings with the DC as well, so -- from</p> <p>11 the CSRA standpoint, he was the one that</p> <p>12 we immediately worked with.</p> <p>13 Q. Do you know if there was</p> <p>14 anybody else above Steve Mays that was</p> <p>15 responsible for reviewing audit reports?</p> <p>16 A. I don't remember what the</p> <p>17 structure was back then.</p> <p>18 Q. Do you recall who Steve Mays</p> <p>19 reported to during 2005 -- between 2005</p> <p>20 and 2007?</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you know if Chris</p> <p>23 Zimmerman would have reviewed audit</p> <p>24 reports between 2005 and 2007?</p>	<p>1 form.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. CLUFF:</p> <p>4 Q. Does he like to create a</p> <p>5 paper trail on things that are happening</p> <p>6 during his work?</p> <p>7 MR. NICHOLAS: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: I don't know</p> <p>10 if he likes to create paper</p> <p>11 trails. We document what we do</p> <p>12 generally.</p> <p>13 BY MR. CLUFF:</p> <p>14 Q. So there was a practice of</p> <p>15 documenting things that happened at the</p> <p>16 company?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know, based on your</p> <p>19 long history of working with Chris</p> <p>20 Zimmerman, whether or not he would have</p> <p>21 documented his review of a report about</p> <p>22 the Orlando distribution center?</p> <p>23 MR. NICHOLAS: Object to the</p> <p>24 form.</p>

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<p>1 THE WITNESS: I have no idea 2 what Chris did with regards to 3 that.</p> <p>4 BY MR. CLUFF:</p> <p>5 Q. After an event like the 6 Orlando suspension, do you know, based on 7 your history of working with Chris, what 8 he would have wanted to review to figure 9 out what the problem was?</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 THE WITNESS: I wouldn't -- 13 I wouldn't want to speculate on 14 that.</p> <p>15 BY MR. CLUFF:</p> <p>16 Q. Would he have written 17 e-mails to people about the distribution 18 center suspension or would he have called 19 people about it?</p> <p>20 MR. NICHOLAS: Object to the 21 form.</p> <p>22 THE WITNESS: Again, I 23 wouldn't want to speculate on what 24 Chris did with regard to that,</p>	<p>1 e-mails about the Orlando suspension? 2 A. I don't recall. 3 Q. If there were, they would be 4 in your files, correct? 5 A. They would be within our 6 system, yes. 7 Q. Do you recall ever reviewing 8 any memorandums about -- or memoranda 9 about the Orlando suspension? 10 A. No specific recollection. 11 Q. Did you ever write a memo 12 about the Orlando suspension? 13 A. I don't recall. 14 Q. Did your responsibilities as 15 an auditor change because of the 16 suspension? 17 A. Again, you know, our audit 18 is governed by internal policy and the 19 audit checklist evolves over time. So 20 whatever the checklist evolved to would 21 have been what I would have done 22 differently from -- from pre to 23 post-Orlando suspension. 24 Q. So you were conducting</p>
<p>1 with regards to that.</p> <p>2 BY MR. CLUFF:</p> <p>3 Q. When Chris had concerns 4 about your work product did he e-mail you 5 about it or did he call you about it?</p> <p>6 A. Both.</p> <p>7 Q. Do you think he would have 8 responded any differently about the 9 Orlando distribution center suspension?</p> <p>10 MR. NICHOLAS: Object to the 11 form.</p> <p>12 THE WITNESS: Again, I 13 wouldn't speculate.</p> <p>14 BY MR. CLUFF:</p> <p>15 Q. Do you have any reason to 16 believe that he would have acted 17 differently?</p> <p>18 MR. NICHOLAS: Object to the 19 form.</p> <p>20 THE WITNESS: Again, I 21 wouldn't speculate how he would 22 react to that.</p> <p>23 BY MR. CLUFF:</p> <p>24 Q. Did you ever receive any</p>	<p>1 audits between 2002 and 2015 as either a 2 manager or supervisor of regulatory 3 compliance, a director and a regional 4 director. Did I get all the titles 5 right?</p> <p>6 MR. NICHOLAS: Object to the 7 form.</p> <p>8 THE WITNESS: It would have 9 been regional supervisor, regional 10 manager, regional director.</p> <p>11 BY MR. CLUFF:</p> <p>12 Q. Got it. And during that 13 time when you conducted audits, you 14 basically just filled out a checklist, 15 right?</p> <p>16 MR. NICHOLAS: Object to the 17 form.</p> <p>18 THE WITNESS: We would 19 conduct the audit and we would 20 complete the checklist, you know, 21 pursuant to the policy at that 22 time.</p> <p>23 BY MR. CLUFF:</p> <p>24 Q. And then write a report?</p>

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<p>1 A. The report would contain any 2 findings that we had on the audits that 3 we conducted, yes.</p> <p>4 Q. You had no responsibility 5 for identifying or reporting suspicious 6 orders, right?</p> <p>7 A. During -- during 2000 --</p> <p>8 Q. 2002 to 2015.</p> <p>9 A. I would say that's a true 10 statement, yes.</p> <p>11 Q. You were just filling out 12 audit checklists?</p> <p>13 MR. NICHOLAS: Object to the 14 form. Asked and answered.</p> <p>15 THE WITNESS: I would say 16 that, yeah, we were conducting the 17 audit and we were documenting 18 findings that we had pursuant to 19 that audit checklist.</p> <p>20 BY MR. CLUFF:</p> <p>21 Q. It's kind of like the job 22 you had when you were at Bergen 23 Brunswick, right, you were documenting 24 the investigations?</p>	<p>1 documenting them on the report, 2 yes.</p> <p>3 BY MR. CLUFF:</p> <p>4 Q. So you said in 2015 you 5 became the director of diversion control, 6 and that was approximately February 2015?</p> <p>7 A. Yes.</p> <p>8 Q. Was that a step up from your 9 role as a regional director or was that a 10 lateral step? I'm just trying to 11 understand the hierarchy.</p> <p>12 A. It was considered a lateral 13 move.</p> <p>14 Q. Did you lateral out of 15 regulatory and security compliance?</p> <p>16 A. Well, it was a -- the 17 diversion team was a unit within CSRA. 18 So it was just a little subunit of the 19 entire CSRA department.</p> <p>20 MR. NICHOLAS: Sterling, if 21 you're transitioning, do you think 22 it's a good time for a break? 23 I -- I don't want to stop your 24 flow here, but it's been --</p>
<p>1 MR. NICHOLAS: Object to the 2 form.</p> <p>3 THE WITNESS: Under Bergen 4 Brunswick I wasn't documenting 5 investigations. I was conducting 6 licensing and subpoena work.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. You said that you were 9 typing up interrogations and 10 investigations between, you know, sort of 11 the beginning of '98 and the middle of 12 '98, right?</p> <p>13 A. Yeah, I was -- I was typing 14 transcriptions, that's correct.</p> <p>15 Q. Recording information?</p> <p>16 A. Correct.</p> <p>17 Q. So you were still just kind 18 of recording information when you 19 performed these checklists, right?</p> <p>20 MR. NICHOLAS: Well, I'll 21 object to the form.</p> <p>22 THE WITNESS: Yeah, we were 23 conducting the audit. We were 24 identifying deficiencies and then</p>	<p>1 Page 187</p> <p>1 MR. CLUFF: No, I appreciate 2 that. Let's just finish up your 3 responsibilities as the director 4 of diversion control, and then 5 we'll break for lunch. How is 6 that?</p> <p>7 MR. NICHOLAS: Perfect.</p> <p>8 BY MR. CLUFF:</p> <p>9 Q. Okay. So this was a lateral 10 move, and was there a change in 11 responsibilities?</p> <p>12 A. Yeah. Somebody took over my 13 old job.</p> <p>14 Q. And then did your -- like 15 your area of responsibility change?</p> <p>16 A. I'm not sure I understand 17 your question.</p> <p>18 Q. Were you still conducting 19 audits when you became the director of 20 diversion control in 2015?</p> <p>21 A. No, sorry. Yes. During the 22 time I transitioned from regional 23 director to director of diversion 24 control, my duties did change at that</p>

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<p>1 point.</p> <p>2 Q. And what, what was that</p> <p>3 change?</p> <p>4 A. Well, I gave up my region</p> <p>5 and I -- and I assumed the responsibility</p> <p>6 of director of diversion control for ABC.</p> <p>7 Q. What is your responsibility</p> <p>8 as the director of diversion control?</p> <p>9 A. I manage the program. The</p> <p>10 investigators, my analysts report to me,</p> <p>11 so I work directly with our pharmacist</p> <p>12 director to run the program and we report</p> <p>13 up to David May.</p> <p>14 Q. Is the pharmacist director,</p> <p>15 is that Sharon Hartman?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So you said that you</p> <p>18 gave up your region and you became the</p> <p>19 director of diversion control. And then</p> <p>20 you were responsible for overseeing the</p> <p>21 entire diversion control program for</p> <p>22 AmerisourceBergen?</p> <p>23 MR. NICHOLAS: Object to the</p> <p>24 form.</p>	<p>1 monitoring program and -- and the due</p> <p>2 diligence collection, yes.</p> <p>3 Q. But prior to February of</p> <p>4 2015, you had never held a position where</p> <p>5 you were responsible for diversion</p> <p>6 control at all, correct?</p> <p>7 A. Other than in a very limited</p> <p>8 capacity as a regional director and I --</p> <p>9 Q. I'm sorry, I interrupted</p> <p>10 you.</p> <p>11 A. As part of the -- as part of</p> <p>12 the conducting the audits of the</p> <p>13 distribution centers.</p> <p>14 Q. So your limited</p> <p>15 responsibility for diversion control</p> <p>16 prior to becoming the director of</p> <p>17 diversion control was to audit diversion</p> <p>18 control procedures at a distribution</p> <p>19 center, right?</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Yeah, prior to</p> <p>23 taking over the diversion program</p> <p>24 as director of diversion control,</p>
<p>1 THE WITNESS: Yes. We -- we</p> <p>2 operate the day-to-day management</p> <p>3 of the program.</p> <p>4 BY MR. CLUFF:</p> <p>5 Q. So now you operate the</p> <p>6 day-to-day diversion control program for</p> <p>7 AmerisourceBergen. I just want to</p> <p>8 understand the scope.</p> <p>9 A. That's correct.</p> <p>10 Q. And you and Sharon Hartman,</p> <p>11 did I get that right?</p> <p>12 A. Yes.</p> <p>13 Q. You manage the investigators</p> <p>14 and the analysts and run the entire</p> <p>15 program?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form.</p> <p>18 BY MR. CLUFF:</p> <p>19 Q. Is that right?</p> <p>20 A. I wouldn't say -- I mean,</p> <p>21 it's all a shared responsibility. David</p> <p>22 May handles a lot of the -- the higher</p> <p>23 level elements of the program. I manage</p> <p>24 the day-to-day operation of the order</p>	<p>1 prior to that I was responsible</p> <p>2 for, you know, completing the</p> <p>3 audit checklist and that portion</p> <p>4 of the audit checklist that</p> <p>5 pertained to diversion and</p> <p>6 control, yes.</p> <p>7 BY MR. CLUFF:</p> <p>8 Q. So prior to becoming the</p> <p>9 director of diversion control, you never</p> <p>10 had any responsibility for managing</p> <p>11 anybody who was identifying or detecting</p> <p>12 suspicious orders?</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: Other than in</p> <p>16 a very limited manner with my</p> <p>17 compliance managers that reported</p> <p>18 to me and they had</p> <p>19 responsibilities at the</p> <p>20 distribution center level, again</p> <p>21 in a limited capacity. So they</p> <p>22 reported up to me. So just to</p> <p>23 clarify that.</p> <p>24 BY MR. CLUFF:</p>

<p style="text-align: right;">Page 194</p> <p>1 Q. And that was in your 2 responsibility as an auditor though, 3 correct? 4 A. As an auditor and a regional 5 director for my region. So I was only 6 responsible for those compliance matters 7 within my region with regards to that 8 responsibility. 9 Q. Those compliance managers, 10 were those called RPICs? 11 A. No. 12 Q. Is there an abbreviation for 13 compliance managers at all? 14 A. Just compliance manager. 15 Q. What's an RPIC? 16 A. RPIC stands for responsible 17 person in charge. 18 Q. And who would that have 19 been? 20 MR. NICHOLAS: Object to the 21 form. 22 BY MR. CLUFF: 23 Q. At a distribution center? 24 A. So there are a number of</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. So between 2002 and 2007, 2 you had no diversion control 3 responsibility then, correct? 4 A. I wouldn't say that's true. 5 The compliance managers didn't report to 6 us, but we still conducted audits and 7 I -- and I conducted investigations for a 8 period of time. 9 Q. So from 2007 -- 2002 to 10 2007, your only responsibility for 11 diversion was to audit diversion at the 12 distribution centers? 13 MR. NICHOLAS: Object to the 14 form. It's not a question. 15 THE WITNESS: We conducted 16 the -- the distribution center 17 audits during that period of time. 18 So in the capacity of a -- back 19 then I guess I was a regional 20 supervisor, I believe. So I 21 would -- I would -- I would 22 monitor the distribution centers 23 for the -- for the diversion 24 program.</p>
<p style="text-align: right;">Page 195</p> <p>1 distribution center associates who -- who 2 were specially trained and had 3 responsibility to review the first line 4 order when it went into a hold. 5 Q. Would -- 6 A. And per procedure they would 7 look at it, they would assess it and they 8 would either release it or escalate it to 9 the corporate diversion team. 10 Q. But you didn't have 11 responsibility for them, did you? 12 A. No, they -- they reported to 13 operations. 14 Q. Okay. So between 2002 and 15 2015, I just want to get the time periods 16 correct, you were responsible for 17 overseeing compliance managers, correct? 18 A. No, that's not correct. 19 Q. Okay. 20 A. Prior to 2007 the compliance 21 managers didn't report up to us. 22 Q. Who did they report to? 23 A. The -- the distribution 24 center manager for the DC.</p>	<p style="text-align: right;">Page 197</p> <p>1 BY MR. CLUFF: 2 Q. You were monitoring -- 3 strike that. 4 And then after 2007 you 5 accepted responsibility for managing the 6 compliance managers at the distribution 7 centers, right? 8 MR. NICHOLAS: Object to the 9 form. 10 THE WITNESS: They began 11 reporting to us post 2007. 12 BY MR. CLUFF: 13 Q. And they had a limited 14 diversion control responsibility, if I 15 understand it correctly? 16 A. Yes. 17 Q. So you had a limited 18 responsibility for diversion control 19 because you oversaw them? 20 MR. NICHOLAS: Object to the 21 form. 22 THE WITNESS: We oversaw 23 them with regards to their 24 responsibilities within the policy</p>

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1 procedures for diversion control. 2 BY MR. CLUFF: 3 Q. And the only other 4 responsibility for diversion control 5 between 2007 and 2015 you had was 6 auditing, correct? 7 MR. NICHOLAS: Object to the 8 form. 9 THE WITNESS: Yeah. I was 10 responsible for my region, and I 11 audited other divisions. 12 BY MR. CLUFF: 13 Q. And then in 2015 you took 14 over shared responsibilities with Sharon 15 Hartman under David May for the entire 16 diversion control program at 17 AmerisourceBergen? 18 MR. NICHOLAS: Object to the 19 form asked and answered. Go 20 ahead. 21 THE WITNESS: That's 22 correct. 23 MR. CLUFF: I think that's a 24 good place to break.	1 A. Yes, I do. 2 Q. All right. Before the 3 break, you mentioned that you had some 4 investigative responsibilities as well 5 after you moved to Philadelphia, or 6 Pennsylvania, correct? 7 A. In the form of -- yeah, I 8 was a regional director, you know, during 9 that period of time. And I did have some 10 investigative responsibilities. 11 Q. Okay. What specifically 12 were your investigative responsibilities 13 at that time? And let's be clear about 14 dates. So when was the first time that 15 you took on investigative 16 responsibilities? 17 A. I conducted various 18 investigations throughout my tenure as a 19 regional director, supervisor, manager 20 throughout that period. 21 Q. And that was from 2002 to 22 2015? 23 A. Yes. 24 Q. Okay. So when you took the
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1 THE VIDEOGRAPHER: Going off 2 the record. 12:40 p.m. 3 (Lunch break.) 4 THE VIDEOGRAPHER: Back on 5 the record. 1:23 p.m. 6 MR. NICHOLAS: For the 7 record, counsel has switched 8 questioners. I'm assured that 9 this is permitted by the rules, 10 and I believe them. So you may 11 proceed. 12 MR. PIFKO: All right. 13 Thank you. 14 - - - 15 EXAMINATION 16 - - - 17 BY MR. PIFKO: 18 Q. My name is Mark Pifko. I 19 also represent the plaintiffs in this 20 matter. I'm going to be asking you some 21 questions. Okay? 22 A. Yes. 23 Q. Do you understand that 24 you're still under oath?	1 job in 2002, we talked about that 2 earlier, that was a new job, correct? 3 A. It was new -- 4 Q. New responsibilities? 5 A. Yes. 6 Q. And among those 7 responsibilities was performing or 8 supervising investigations; is that 9 correct? 10 A. Well, I didn't really 11 supervise investigations. I conducted 12 investigations as part of my role of 13 being a regional director. 14 Q. Okay. You conducted all 15 the -- to the extent an investigation was 16 conducted while you were regional 17 director, it was conducted exclusively by 18 you? 19 MR. NICHOLAS: Object to the 20 form. 21 THE WITNESS: I would 22 conduct my own investigations. I 23 also worked with our investigative 24 team on certain investigations

1 depending on what we were 2 investigating. 3 BY MR. PIFKO: 4 Q. Okay. Let's talk about the 5 nature and scope of the investigations 6 that you conducted. Were there different 7 types of investigations that you 8 conducted? 9 A. Yes, a whole array. 10 Q. All right. Can you name 11 some of them today? 12 A. As a regional director, I 13 did a lot of theft investigations. I 14 think that would be the lion's share of 15 the investigation types that I conducted. 16 Q. And -- 17 A. In -- 18 Q. I'm sorry. Continue. I 19 don't want to interrupt you. 20 A. In addition to that, I did 21 construct investigations from 2005 to 22 2007. I would review what we call the 23 possible suspicious order reports. And 24 this was a function that was assigned to	Page 202 1 the Philadelphia DEA office. I worked 2 with him closely on an investigation when 3 I was in the middle of transitioning from 4 Orange, California to Philadelphia. It 5 was a long -- a nearly two-year 6 investigation I worked very closely with 7 him on. 8 Q. What was the nature of the 9 investigation? 10 A. It was Highland Park 11 Pharmacy. We were working with him from 12 the beginning of that investigation, and 13 we were giving him sales reports for the 14 customer that was being investigated. 15 Like I said, it was an in-depth, long 16 investigation, and during that period of 17 time I became pretty friendly with Scott. 18 He's a personal friend today. We 19 actually got awarded as a result of that. 20 I have a plaque in my office from the DEA 21 and the contributions to the field of law 22 enforcement in the drug distribution 23 industry. 24 So that -- I worked with him
Page 203 1 me as a collateral duty outside of my 2 responsibility as regional director. 3 Q. Did you ever interact with 4 anyone from the DEA when you became a 5 regional director? 6 A. Yeah. I had a lot of 7 interaction with DEA, special agents as 8 well as diversion investigators. 9 Q. Again, I want to make sure 10 we're talking about a clear time period, 11 but over your tenure as a regional 12 director, can you name some of the names 13 of DEA agents that you interacted with? 14 A. Scott Davis, Philadelphia 15 DEA, was one. 16 There were so many. He's 17 really the guy that comes to mind right 18 now. 19 Q. So Scott Davis was the 20 primary DEA agent who was visiting 21 facilities that you had responsibility 22 for; is that correct? 23 A. No, I wouldn't say that. 24 He -- he is one of the investigators with	Page 205 1 a lot on the local distribution centers, 2 Thorofare, New Jersey; Bethlehem 3 Pennsylvania. 4 Q. Highland Park Pharmacy, 5 that's a pharmacy in Philadelphia? 6 A. They're located in a suburb 7 of Philadelphia. I believe they were 8 near Newtown Square or in that general 9 area. 10 Q. Do you know what the outcome 11 of that investigation was? Was there an 12 action taken against that pharmacy? 13 A. Yes. That owner went to 14 prison. 15 Q. Do you know what the basis 16 of the charges was? 17 A. It was I believe diversion 18 of narcotics. 19 Q. What specifically? Opioids? 20 A. Yeah, I don't remember the 21 specific drug families but it was 22 certainly opioids. 23 Q. And do you know what the 24 nature of the conduct specifically was

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<p>1 with respect to the diversion, what 2 was -- what was occurring at that 3 pharmacy?</p> <p>4 A. The DEA doesn't share 5 specifics of their investigations with 6 industry. So we pretty much worked with 7 him on providing him sales reports for 8 that extended period of time. But, just 9 the way law enforcement works, they don't 10 share specific information due to its 11 confidential nature.</p> <p>12 Q. Based on the information 13 that you provided to Mr. Davis, was the 14 pharmacy selling high volumes of 15 controlled substances?</p> <p>16 MR. NICHOLAS: Object to the 17 form.</p> <p>18 THE WITNESS: Yes, they 19 were -- they were buying very high 20 volumes of narcotics.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Do you remember estimating 23 the proportion of opioids versus their 24 total sales from AmerisourceBergen?</p>	<p>1 investigation, how you came to be 2 involved with -- did someone at the 3 company call you and say we need you to 4 work with this DEA agent or did they call 5 you directly?</p> <p>6 A. That -- that investigation 7 started when I was working for Bergen 8 Brunswick in a capacity of regulatory 9 specialist I think my title was.</p> <p>10 So I was responsible for 11 subpoenas for the company as I had 12 indicated previously. So Scott contacted 13 me or his request gravitated to me and I 14 began working with him I believe around 15 the 2000 time frame and through my 16 promotion to becoming a regional 17 supervisor when I moved to Pennsylvania.</p> <p>18 Q. Okay. Did the company -- 19 the -- the company, so, when you -- what 20 was that title you said that you had when 21 you were -- so you said you were a 22 security officer when you started and 23 then you moved into this other job?</p> <p>24 A. I believe it was a</p>
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<p>1 A. I don't recall the 2 specifics.</p> <p>3 Q. Okay. Have you heard the 4 concept of a red flag?</p> <p>5 A. Yes, it's a general term we 6 use.</p> <p>7 Q. Okay. Have you heard that 8 one of the red flags of diversion is the 9 proportionality of controlled substances 10 to a customer's total substances they 11 purchase from a distributor, have you 12 heard that before?</p> <p>13 A. Yes, I have.</p> <p>14 Q. Okay. Regardless of whether 15 you remember the specific number that 16 this pharmacy was buying, do you recall 17 that -- proportionality being one of the 18 red flags of diversion for that pharmacy?</p> <p>19 A. I don't recall. It was too 20 long ago. This was almost -- this was 21 18 years ago. So it's just too long ago 22 for me to remember specifics about that 23 particular investigation.</p> <p>24 Q. Do you recall how that</p>	<p>1 regulatory specialist --</p> <p>2 Q. Okay.</p> <p>3 A. -- but I'm not sure about 4 that. It is just something that seems to 5 ring a bell.</p> <p>6 Q. Did the company have a 7 database where they kept subpoenas and 8 investigative requests of that nature 9 that you were responsible for responding 10 to in a centralized location?</p> <p>11 A. Yeah. In that time period 12 we had, we had a system.</p> <p>13 Q. Okay. What was the name of 14 that system?</p> <p>15 A. I believe it was law -- Law 16 Track or Law Pack. I think it 17 transitioned from one to the other, but 18 again, that was a long time ago.</p> <p>19 Q. Okay. So then when -- after 20 the merger occurred, do you know what the 21 system that would have been used to 22 centralize this request was?</p> <p>23 A. I think we moved it into Law 24 Track.</p>

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<p>1 Q. Okay.</p> <p>2 A. I think the previous system</p> <p>3 was Law Pack.</p> <p>4 Q. Do you know the period for</p> <p>5 how long those kinds of investigations</p> <p>6 and requests would be maintained on that</p> <p>7 system?</p> <p>8 A. Well, they were maintained</p> <p>9 from that point all the way until, you</p> <p>10 know, roughly in the last year or two</p> <p>11 when we switched systems.</p> <p>12 Q. Okay. And then when you</p> <p>13 switched systems, what -- what did you do</p> <p>14 with the data, do you know?</p> <p>15 A. The data was transferred to</p> <p>16 another system for maintenance, and it's</p> <p>17 still there. It's still retrievable by</p> <p>18 us.</p> <p>19 Q. Okay. Is that -- from time</p> <p>20 to time do you ever go back and, for</p> <p>21 business reasons, look at that data?</p> <p>22 A. I do. I don't do it as much</p> <p>23 as my investigators do. They are the</p> <p>24 ones that are doing the day-to-day</p>	<p>1 seek to obtain information from that</p> <p>2 historic system?</p> <p>3 A. During any investigation.</p> <p>4 If we're looking into a customer and we</p> <p>5 want to see their background, what we</p> <p>6 have in their due diligence file, we</p> <p>7 would go into either system to see what</p> <p>8 we have on them. So that would be a</p> <p>9 result of investigations or subpoenas,</p> <p>10 any number of reasons.</p> <p>11 Q. Okay. And as far as you</p> <p>12 know, the -- the subpoenas, investigative</p> <p>13 reports, and the company's responses to</p> <p>14 those reports, are maintained</p> <p>15 indefinitely on that system?</p> <p>16 A. I believe so.</p> <p>17 Q. Okay. So do you recall any</p> <p>18 other -- other than Scott Davis, any</p> <p>19 other DEA agents that you interacted</p> <p>20 with?</p> <p>21 A. Yeah, there were a lot of</p> <p>22 them. Doug Crawford in the -- in the</p> <p>23 Columbus area. I dealt with him. A lot</p> <p>24 of groups of advisors, a lot of</p>
<p>1 investigations for the most part. But</p> <p>2 they do go in there readily. I mean,</p> <p>3 that's where all the old information is</p> <p>4 so...</p> <p>5 Q. Okay. You said you do from</p> <p>6 time -- you have on occasion?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Is there like a --</p> <p>9 how do you access that, is there like a</p> <p>10 portal you have to log into?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And when you log into</p> <p>13 that, and you can keyword search it or</p> <p>14 something, how does it work?</p> <p>15 Yeah?</p> <p>16 A. Yeah. There's two systems.</p> <p>17 There's Matter Management that we put our</p> <p>18 new information into. And then that --</p> <p>19 the other system, I'm -- I'm sorry, the</p> <p>20 name escapes me what it's called. But</p> <p>21 we -- we have ready access to both</p> <p>22 systems.</p> <p>23 Q. Okay. What are the types of</p> <p>24 occasions on which you would -- you would</p>	<p>1 investigators. There's so many of them.</p> <p>2 I don't really deal with them very often</p> <p>3 anymore, so this is -- you know, years</p> <p>4 ago that I was dealing with these people,</p> <p>5 so...</p> <p>6 Q. I understand we're talking</p> <p>7 about a time period that was earlier and</p> <p>8 maybe there's a lot of names. But it</p> <p>9 just -- it would help if you can remember</p> <p>10 any other names. I know it's kind of an</p> <p>11 odd question.</p> <p>12 But so you remember Scott</p> <p>13 Davis, Doug Crawford. Any other names?</p> <p>14 A. I didn't really prepare for</p> <p>15 this question, so no, none -- none of</p> <p>16 those come to my mind right now.</p> <p>17 Q. Mr. Crawford in Columbus, is</p> <p>18 there -- is there a reason why you</p> <p>19 remember his name?</p> <p>20 A. He's conducted audits of our</p> <p>21 distribution center.</p> <p>22 Q. Okay. And he conducted</p> <p>23 audits of distribution centers for which</p> <p>24 you had responsibility?</p>
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<p>1 A. I'm not sure if I had 2 responsibility at the Columbus 3 distribution center when he audited us. 4 I may have. I'd have to check the 5 records for that.</p> <p>6 Q. That was my -- my next 7 question. Did you have any 8 responsibility for distribution centers 9 in Ohio?</p> <p>10 A. Yes, at one time.</p> <p>11 Q. Okay. And what time was 12 that?</p> <p>13 A. I don't recall. I'd have to 14 check, check the -- the system for the 15 time period that I had the -- I had the 16 Chicago and the Columbus distribution 17 centers within my region, but I don't 18 recall the exact dates.</p> <p>19 Q. When you say check the 20 system, what would you check?</p> <p>21 A. I'm sure that within the 22 system there would be documentation that 23 indicates the assignments that we had and 24 which distribution centers were, you</p>	<p>1 Q. If you wanted to access it, 2 how would you go to find that?</p> <p>3 A. It's a good question. I'm 4 not really sure where it would be. We'd 5 have to search for it.</p> <p>6 Q. Do you have -- do you have 7 network drives on your system, does that 8 mean anything to you?</p> <p>9 A. Not sure.</p> <p>10 Q. You understand that you can 11 save something onto your computer, right, 12 like on the C drive. But do you have 13 like a shared drive where you save 14 certain -- certain documents that you 15 would look at or other people can save 16 documents to?</p> <p>17 A. Yes, we have a shared drive.</p> <p>18 Q. Okay. What's the name of 19 it?</p> <p>20 A. I call it the S drive.</p> <p>21 Q. Okay. And to your knowledge 22 how long has that been in use?</p> <p>23 A. A long time. I don't 24 remember when it started.</p>
<p>1 know, located within the region that I 2 had responsibility for.</p> <p>3 Q. Is there like a name of a 4 document that would say who was assigned 5 to what, that you can think of?</p> <p>6 A. I don't recall what the name 7 of the document would be.</p> <p>8 Q. Okay. But there's some sort 9 of document that says, these are the 10 distribution centers within this person's 11 responsibility, these are the ones within 12 this person's responsibility; is that 13 correct?</p> <p>14 A. Yeah. It should be usually 15 a United States map and it breaks down 16 which investigators had responsibility 17 for which DCs.</p> <p>18 Q. Okay. And how was that 19 maintained in the company's files?</p> <p>20 A. I would say that it's kept 21 in general correspondence. Steve Mays 22 assigned it. And a lot of times we -- it 23 was based on sales region and then we 24 broke away from that.</p>	<p>1 Q. So dating back to like 2002 2 when you were regional director, do you 3 believe you would access the S drive at 4 that time?</p> <p>5 A. I don't think so.</p> <p>6 Q. Okay. So some time after 7 that?</p> <p>8 A. I'm not sure but I would 9 think that it was -- it's so long ago, I 10 don't recall.</p> <p>11 Q. Okay. Well, do you recall 12 accessing documents or saving documents 13 to the S drive when you were a regional 14 director at any point?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Is that a way that 17 you would have shared information 18 among -- so obviously there's a region, 19 so there's other people would you need to 20 interact with. You might need to 21 interact with your boss. Is that a way 22 that you would have saved documents so 23 that you could communicate with each 24 other?</p>
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<p>1 A. Yeah, we called it a shared 2 file. So it was a -- it was a file that 3 everybody had access to, so we could put 4 documents on there, and everybody had 5 access to them. So that's a correct 6 statement.</p> <p>7 Q. Okay. So from time to time 8 you might have a meeting and someone 9 could say, oh, pull up the document, and 10 everyone could open it and see what was 11 there?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So we would be able 14 to know the -- the distribution centers 15 for which you were responsible by 16 accessing these historical records?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you -- you -- 19 what was the distribution center in 20 Columbus, was it in the Columbus proper 21 or was it in a suburb outside of 22 Columbus?</p> <p>23 A. I'm trying to remember the 24 town that it's -- that it's in. I can't</p>	<p>1 that.</p> <p>2 Q. Have you ever heard of Mike 3 Mapes?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. He was a DEA agent, 6 correct?</p> <p>7 A. Yes, he was.</p> <p>8 Q. And he was also a consultant 9 that was hired by the company, correct?</p> <p>10 A. Yes, he was.</p> <p>11 Q. Okay. Did you ever interact 12 with Mr. Mapes when he was a DEA agent?</p> <p>13 A. A lot, yes.</p> <p>14 Q. Okay. What was the --</p> <p>15 A. I'm sorry, when he was an 16 agent?</p> <p>17 Q. Yeah.</p> <p>18 A. Yeah, I worked with him when 19 we transitioned our renewal process from 20 individual DEA license renewals to the 21 batch renewal. He was chief of 22 E-commerce back then. So I worked 23 closely with him in -- in transitioning. 24 I think we were the first large</p>
<p>1 think of the town that it's in. It's a 2 suburb of Columbus.</p> <p>3 Q. I believe it seems to have 4 been Lockbourne. Is that --</p> <p>5 A. Yes.</p> <p>6 Q. Is that the facility that --</p> <p>7 A. That's it.</p> <p>8 Q. So when you refer to 9 Columbus, that's the facility you're 10 thinking of?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Any other -- so -- so 13 Doug Crawford conducted some audits of 14 the Lockbourne facility and that's how 15 you remember interacting with him?</p> <p>16 A. I remember one that he 17 conducted recently. I don't know any -- 18 any of the -- I can't confirm any audits 19 that he conducted other than the one I'm 20 thinking of.</p> <p>21 Q. And that was recently, you 22 said?</p> <p>23 A. I would say in the last five 24 years. I can't really pinpoint beyond</p>	<p>1 wholesaler that transitioned to the batch 2 renewal system, and so they used us sort 3 of as a -- as a model to try it out first 4 and then the other -- the other rest of 5 the industry followed us. So I believe 6 that's my recollection, that we were the 7 first to do that. So I did have a lot of 8 discussions with -- with Mike.</p> <p>9 Q. Do you recall a rough time 10 period when that occurred?</p> <p>11 A. I want to say pre-2000.</p> <p>12 Probably '95 -- or probably '98.</p> <p>13 Q. Okay.</p> <p>14 A. Maybe around '98. It was 15 pre -- pre me moving to Pennsylvania.</p> <p>16 Q. And then did you continue to 17 interact with Mr. Mapes on other 18 occasions after moving to -- away from 19 California?</p> <p>20 A. Yeah. Several different 21 occurrences where I spoke to him.</p> <p>22 Q. Okay. Can you name some of 23 the issues that you worked on with him?</p> <p>24 A. Well, he was chief of</p>

<p style="text-align: right;">Page 222</p> <p>1 e-commerce, so we had to get 2 clarification from him quite a few times 3 on regulations. We transitioned to the 4 CSOS program at one point. And I headed 5 up that transition. And so I worked 6 closely with Mike. In that -- same thing 7 with the batch renewal. We were one of 8 the first distribution centers in the 9 industry to transition to CSOS. So I 10 worked closely with him during that 11 period of time regarding that transition.</p> <p>12 Q. Do you have an understanding 13 of the timing, about when that was?</p> <p>14 A. It started pre -- pre me 15 starting with the company. I think CSOS 16 started around '95. And I think we 17 transitioned -- I don't recall exactly. 18 I think it was the early 2000s.</p> <p>19 Q. What does CSOS stand for?</p> <p>20 A. Controlled Substance 21 Ordering System.</p> <p>22 Q. Okay. And can you tell me 23 what that is?</p> <p>24 A. So for years DEA had the</p>	<p style="text-align: right;">Page 224</p> <p>1 early 2000 period?</p> <p>2 A. I can't remember the date.</p> <p>3 But it was right around that -- it might 4 have been the late '90s.</p> <p>5 Q. If a customer uses a paper 6 order form, they have to -- how do they 7 send it to you? Fax it or mail it?</p> <p>8 A. Yeah, they could -- they 9 could send it any number of ways. They 10 could mail it. They could send it with 11 the driver who delivers their shipment, 12 and then give it to them in an envelope, 13 and then it goes back with the driver.</p> <p>14 They can fax it to us. There's a lot of 15 ways that we -- that we receive paper 222 16 forms from our customers.</p> <p>17 Q. And then when customers use 18 the electronic ordering system, they have 19 some sort -- they have a computer in 20 their store or whatever, and they access 21 some sort of portal to enter their order?</p> <p>22 How does that work?</p> <p>23 A. Yeah. They -- they have to 24 get approved by the DEA. They have to</p>
<p style="text-align: right;">Page 223</p> <p>1 paper 222 form, narcotic order form. 2 It's in triplicate. It has ten line 3 items that a customer could fill in to 4 receive narcotics. So they finally 5 switched over to an electronic 222 6 program that took away the paper form 7 that's printed in triplicate and allowed 8 customers to place orders electronically 9 through encryption. And a lot of DEA 10 technology involved, so that can be 11 completed, you know, without the paper 12 forms. So that's really the next 13 generation of the narcotic paper order 14 forms.</p> <p>15 Q. And so that's the way that 16 customers place an order with the 17 company, using that system?</p> <p>18 A. Not all customers. A lot of 19 customers are still on the old paper 222 20 forms, a lot of the old pharmacists that 21 are not really technology savvy. But all 22 the new customers pretty much 23 transitioned to the CSOS program, yes.</p> <p>24 Q. And this started in the</p>	<p style="text-align: right;">Page 225</p> <p>1 complete a form, and then the DEA issues 2 them a certificate, and they receive a 3 paper authentication number and then one 4 via e-mail. And then they authenticate 5 that digital certificate. And then once 6 they receive the digital certificate, 7 it's embedded into a computer that they 8 use to access that certificate using what 9 they call the -- I think it's dual 10 credentials that they use.</p> <p>11 And then once that digital 12 certificate is in the customer's 13 computer, they can use that to build an 14 order using our system, and then shoot it 15 out electronically.</p> <p>16 Q. And then it's received on 17 the other end electronically as well?</p> <p>18 A. Yeah, it goes through the 19 CRL. It's called the certificate 20 revocation list. It's a daily transfer 21 that we receive as the wholesaler to 22 verify that that digital certificate is 23 valid. And then once it passes that 24 test, it reaches our system. And then it</p>

<p style="text-align: right;">Page 226</p> <p>1 goes through all of our checks, credit, 2 licensing, diversion, you know, order 3 monitoring program. And then if it 4 passes that, it goes right into pick, 5 pack, and ship.</p> <p>6 Q. Okay. So is there like a 7 terminal inside the distribution center 8 where people see the order that comes in? 9 How does that work?</p> <p>10 A. It's been a while. I don't 11 remember specifically how they look at 12 it. If it hits a hold, like a credit 13 hold or a -- you know, there's license 14 hold or there's a million different kinds 15 of holds that it can go into it, it will 16 hit a screen that the associate has to 17 look at and determine why it's not going 18 through.</p> <p>19 So it might be kicked back 20 to the customer if it -- if it fails one 21 of the tests. If it doesn't fail a test, 22 it goes right into the PKMS system where 23 it's picked, packed, and shipped.</p> <p>24 Q. So there's someone whose job</p>	<p style="text-align: right;">Page 228</p> <p>1 You also mentioned the order 2 monitoring program. If it exceeds the 3 parameters of the order monitoring 4 program, that's another reason?</p> <p>5 MR. NICHOLAS: Object to the 6 form.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. Is that correct?</p> <p>9 A. Absolutely. It's one of 10 the -- it's one of the filters that it 11 has to go through in order to go through 12 the system. It has to hit that -- hit 13 that parameter.</p> <p>14 Q. Okay. And this data 15 manager, are they the person who's 16 responsible for then making a -- I'm 17 talking about something that hits the 18 order monitoring program issue. Is that 19 person responsible for making a 20 determination about whether there's an 21 issue with the order or do they send 22 it -- send it to someone else?</p> <p>23 MR. NICHOLAS: Could I ask 24 just what time frame we are</p>
<p style="text-align: right;">Page 227</p> <p>1 it is to sit at a computer terminal and 2 monitor the orders that are getting 3 flagged for various failures?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: Yeah. It's -- 7 I think in most cases it's the 8 processing manager of the 9 distribution center. He kind of 10 runs brains of the distribution 11 center.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. So did you say the data 14 processing manager? Is that what you 15 said?</p> <p>16 A. DP manager. Data 17 processing.</p> <p>18 Q. Okay. And so one of the 19 things could be like the license is 20 expired in the system, so it's rejecting 21 the order, or there's an issue like you 22 said with the credit, maybe the payment 23 is not going to process so that gets 24 rejected.</p>	<p style="text-align: right;">Page 229</p> <p>1 talking about?</p> <p>2 THE WITNESS: Yeah, it would 3 help to clarify the time frame.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. At any time. Did it vary 6 over the time period?</p> <p>7 A. Yeah. Well, we used to have 8 responsible persons in charge, as I 9 previously discussed. So generally 10 speaking, the data processing manager 11 would be one of the RPICs for the 12 servicing distribution center.</p> <p>13 So that individual would 14 look at the order if it did hit an OMP 15 hold, and they would make a 16 determination. Based on their training, 17 they would release the order for 18 shipment, or they would escalate the 19 order to the diversion control team at 20 corporate.</p> <p>21 Q. Okay. And what was the time 22 period when that process was used?</p> <p>23 A. We ceased use of the RPICs 24 shortly after I took over the program in</p>

<p style="text-align: right;">Page 230</p> <p>1 2015. So I believe the RPIC existed, you 2 know, from -- from probably summer of 3 2015 back to a period that I don't 4 recall. I don't remember when they were 5 implemented.</p> <p>6 Q. Some long ago period as far 7 as you know?</p> <p>8 A. Years. When I wasn't really 9 directly involved in the diversion 10 program when that happened, so I can't 11 tell you exactly when.</p> <p>12 Q. When you were a regional 13 manager -- director, I guess -- well, you 14 had all those different kinds of titles, 15 right?</p> <p>16 A. Yes.</p> <p>17 Q. That responsible person in 18 charge, is that someone who you would -- 19 I understand they didn't report to you, 20 but is that someone who you would have 21 input into whether they were performing 22 their functions with respect to the order 23 monitoring program?</p> <p>24 MR. NICHOLAS: Object to the</p>	<p style="text-align: right;">Page 232</p> <p>1 performed a very detailed audit during 2 these -- during these periods. So we 3 would -- we would cover the questions as 4 it was indicated on the audit checklist. 5 And depending on -- they 6 would -- generally part of that process 7 would be for the compliance manager to 8 explain how they manage their RPICs for 9 their distribution center. And if there 10 were questions, we would ask them at that 11 time. But we would -- we would ask 12 detailed questions about how it was being 13 managed when we did the audits.</p> <p>14 Q. About how many RPICs would a 15 particular distribution center have at 16 any one time?</p> <p>17 A. It would depend on the 18 distribution center. Anywhere from three 19 or four to maybe ten depending on the 20 size of the distribution center and how 21 busy they were. We have some 22 distribution centers that are very small 23 and they service a very small area. Some 24 are big. So it would depend.</p>
<p style="text-align: right;">Page 231</p> <p>1 form.</p> <p>2 THE WITNESS: We would look 3 at, you know, what they were doing 4 during our audits. The compliance 5 manager who reported up to the 6 regional director had 7 responsibility of all the RPICs 8 within that distribution center.</p> <p>9 So -- so there would be sort 10 of an extended responsibility from 11 the director if it was the 12 directors distribution center that 13 he or she was auditing.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. And that compliance manager, 16 that's someone that you would interact 17 with in the audit process, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And would you ask 20 them questions about their compliance 21 with overseeing the responsible people in 22 charge as part of your audit?</p> <p>23 A. If we had reason to ask them 24 as part of the audit. I mean, we -- we</p>	<p style="text-align: right;">Page 233</p> <p>1 Q. How does the Lockbourne 2 facility fare in the size, comparative 3 size that you were just describing?</p> <p>4 A. Larger.</p> <p>5 Q. Okay. That's a place that 6 would have more like ten RPICs?</p> <p>7 A. That's just a -- just a 8 general --</p> <p>9 Q. Estimate?</p> <p>10 A. -- idea. Probably, yeah. I 11 mean, average for larger divisions, 12 probably maybe between six and eight. 13 But it's hard to say. They vary from DC 14 to DC, but yes.</p> <p>15 Q. Okay. Is there -- as part 16 of your audit keeping, are you familiar 17 with records that would describe who was 18 holding those roles at any particular 19 time?</p> <p>20 A. Yes. I believe there was a 21 list of the RPICs at the distribution 22 center.</p> <p>23 Q. Okay. Do you know what the 24 name of that list was called?</p>

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<p>1 A. No. I don't remember what 2 it was called.</p> <p>3 Q. Would that be kept in some 4 central file at the distribution center?</p> <p>5 A. Yes. It would. I think we 6 used the training documents as the list 7 as who was trained and who was performing 8 that function.</p> <p>9 Q. What do you mean by that? 10 There was a training?</p> <p>11 A. Yeah. The RPICs were 12 required to undergo training, so we 13 would -- you know, I think it was an 14 annual training requirement that they all 15 had to go through. So we would use that 16 as the document.</p> <p>17 Q. So when you are conducting 18 the audit, you look at the records of who 19 was trained and when?</p> <p>20 A. That was one of several 21 things that we looked at, yes.</p> <p>22 Q. Was there a way to tell if 23 someone was an RPIC but they weren't 24 being trained?</p>	<p>1 form.</p> <p>2 THE WITNESS: They vary from 3 DC to DC, how they maintain their 4 files. But when we audited them, 5 they would bring all the files to 6 us.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. Okay. And you were just -- 9 they knew the types of files that you 10 wanted when you came because you had done 11 these audits before?</p> <p>12 A. Yeah, there's a document 13 that indicates -- that we would give them 14 at the onset of the audit that would 15 indicate everything that we needed.</p> <p>16 Q. Okay. So to your knowledge, 17 what -- as an auditor, what was the 18 period for how long back they kept those 19 records?</p> <p>20 A. It would depend on the 21 document and the record. We had a 22 record -- what do we call it? A 23 retention policy. And it would depend. 24 You know, different records had different</p>
<p>1 A. Yes. That's one of the 2 things that we audited for.</p> <p>3 Q. Okay. And there was 4 documentation of who those people were 5 and their training history? That would 6 be kept at the distribution center?</p> <p>7 A. Yes.</p> <p>8 Q. Is there like -- were these 9 on paper files or electronic files?</p> <p>10 A. We used paper files. When 11 training is conducted at the distribution 12 center, they would have to sign that they 13 were trained, and they show the date of 14 the training and the details of the 15 training. So we would use that as the 16 basis.</p> <p>17 Q. In your experience as an 18 auditor, were the training files, or -- 19 and general compliance files that you 20 would be looking at, were they all kept 21 in a central location, like go to this 22 room and that's generally where the 23 compliance files are kept?</p> <p>24 MR. NICHOLAS: Object to the</p>	<p>1 retention policies.</p> <p>2 Q. Okay. Was that -- the 3 retention policy, is that part of the 4 audit checklist?</p> <p>5 A. No. That's laid out by the 6 legal department, I believe.</p> <p>7 Q. Okay. But it's a document 8 that, like Form 222 should be kept this 9 long, training documents should be kept 10 this long, is that -- that's kind of what 11 it would look like?</p> <p>12 A. Yeah, it would -- that would 13 be identified in the audit checklist, how 14 far back they are required to have those 15 documents and we would verify that.</p> <p>16 Q. Okay. And then when you 17 filled out these audit reports, would you 18 save them to some centralized drive?</p> <p>19 A. Yes. They would be kept 20 electronically.</p> <p>21 Q. On the S drive?</p> <p>22 A. I don't recall putting them 23 on the S drive. I know that they were 24 filed in our -- in our -- in our system,</p>
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<p>1 which would be Law Track. And that's 2 updated. So that server is maintained 3 for -- for that use.</p> <p>4 Q. You mentioned that from time 5 to time you go back and access or 6 investigators go back and access 7 historical records. Are those audit 8 reports something that people access and 9 you've accessed?</p> <p>10 A. Yes. That would be part of 11 our due diligence documentation that 12 would be readily retrievable and used 13 from time to time as necessary.</p> <p>14 Q. Okay. And so this day you 15 can still access them and use them?</p> <p>16 A. Yes.</p> <p>17 Q. So I know we've gone a 18 little branch of the tree there. But I 19 was asking you still about DEA agents 20 that you interacted with. And we had 21 talked about Mr. Mapes.</p> <p>22 So you mentioned that you 23 interacted with him on licensing 24 procedures and on the CSOS program. How</p>	<p>1 principal CSOS coordinator for 2 ABC, which means I'm the main -- 3 I'm the main liaison between the 4 DEA and CSOS. So I worked with 5 them a lot regarding CSOS 6 regulations and drafting our 7 policies regarding the CSOS 8 program. So that was a lot of 9 interaction.</p> <p>10 And beyond that would be the 11 renewal process earlier on. 12 Renewing the batch renewals. And 13 above and beyond that would have 14 been just -- he was a good contact 15 for us so we would use him as a 16 contact for a lot of regulatory 17 clarification.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. So you just felt you had a 20 good relationship with him, so if you had 21 a question you would just pick up the 22 phone and -- and call him or something, 23 is that kind of what you're telling me?</p> <p>24 A. Exactly.</p>
<p>1 about any other types of issues that you 2 interacted with Mr. Mapes?</p> <p>3 A. As an agent?</p> <p>4 Q. Yes.</p> <p>5 A. When he was with DEA.</p> <p>6 Q. Yes.</p> <p>7 A. Other than just other 8 miscellaneous requests for clarification 9 of regulations. There was probably two 10 or three instances with that that I can 11 vaguely recall, but I don't remember 12 specifics. But it would really pretty 13 much -- that would pretty much cover 14 the -- the instances that I interacted 15 with Mike.</p> <p>16 Q. So requests for 17 clarification or regulation, what was the 18 protocol, how would that -- and the 19 occasions that you remember kind of 20 generally, how would that interaction 21 with Mr. Mapes occur?</p> <p>22 MR. NICHOLAS: Object to the 23 form.</p> <p>24 THE WITNESS: Well, I'm the</p>	<p>1 Q. Okay. How about e-mails, 2 did you e-mail with him when you had 3 questions?</p> <p>4 A. No. The DEA don't like 5 e-mails too much. They -- they have a 6 firewall. So we would get -- once in a 7 while they would respond via written 8 form, but usually we would get verbal 9 clarification on regulations.</p> <p>10 Q. Okay. So you have -- the 11 nature of your relationship with 12 Mr. Mapes was such that you could just 13 pick up the phone and -- if you had a 14 question and talk to him and get an 15 answer?</p> <p>16 A. Yeah, he knew who I was so 17 he would take my call.</p> <p>18 Q. Okay. And then did you take 19 notes of these calls ever?</p> <p>20 A. God, I don't recall.</p> <p>21 Q. Okay.</p> <p>22 A. With clarification of 23 regulation, we would -- we would use 24 his -- his -- his input certainly within</p>

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<p>1 the documentation that we were 2 completing, yeah. 3 Q. That's what I was going. So 4 if you're working on some sort of 5 regulatory question that you had, and you 6 called him up, would you write down, 7 okay, I talked to him and he said this, 8 and put that in a file somewhere, so that 9 everybody else could see?</p> <p>10 A. I don't recall specifics 11 when I interacted with Mike. But yes, 12 generally with CSOS regulations, we would 13 use his input as the basis of our -- of 14 our policy.</p> <p>15 Q. Okay. So you would be 16 working on some sort of policy and then 17 maybe you would write something in there 18 on the basis of the conversation that you 19 had?</p> <p>20 MR. NICHOLAS: Object to the 21 form.</p> <p>22 THE WITNESS: Yeah. We 23 would document that he -- that he 24 clarified, you know, specific</p>	<p>1 many years since I've interacted 2 with him. It's hard for me to 3 really state specifically how we, 4 you know, maintained the 5 information received from Mike. I 6 don't recall. It would be -- it 7 would vary depending on what we 8 were asking him. Sometimes it was 9 a very minor issue, sometimes it 10 was a more important issue.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Okay. And then would you 13 save, like if you sent him a letter, 14 would that get saved on the S drive or 15 something like that?</p> <p>16 A. Yes. Any written 17 correspondence to the DEA would generally 18 be kept in a -- in a form, in a 19 retrievable, you know, format.</p> <p>20 Q. If you took notes on a 21 discussion with him and put it into some 22 sort of memo or, you know, something like 23 that, would that be saved on the S drive?</p> <p>24 A. It would depend. Maybe not</p>
<p>1 regulation and what it meant and 2 how we were to interpret that. So 3 that's -- that's usually the way 4 we used his input.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Okay. And is there like a 7 format for a document where you would put 8 that kind of information in?</p> <p>9 A. I'm trying to remember my 10 interaction with him. I don't think 11 there was any specific format. I think 12 we just clarified, you know, within our 13 correspondence that he clarified, you 14 know, this is the interpretation that we 15 should use.</p> <p>16 Q. Okay. So maybe you'd sent 17 him a follow-up letter after the call, is 18 that what you're saying?</p> <p>19 I'm just trying to 20 understand, I'm trying to visualize what 21 you would do.</p> <p>22 MR. NICHOLAS: Object to the 23 form.</p> <p>24 THE WITNESS: It's been so</p>	<p>1 always.</p> <p>2 Q. Okay. Depending on the 3 significance of maybe the discussion, is 4 that what you're getting at with me?</p> <p>5 MR. NICHOLAS: Object to the 6 form.</p> <p>7 THE WITNESS: Yeah. It 8 would depend on what we were 9 calling him about.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Okay.</p> <p>12 A. I mean I had multiple 13 discussions with Mike over years. So it 14 would just -- it would cover the gamut.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Right. But if it was a more 17 significant issue, you would be more 18 likely to write that down than if it was 19 a minor thing, you know, you would just 20 leave that be without documenting it, is 21 that what you're telling me?</p> <p>22 A. I can speak for myself.</p> <p>23 Yes, I would -- I would be likely -- it 24 would be likely that I would maintain it</p>

<p>1 in a written form.</p> <p>2 Q. Okay. If it was a more</p> <p>3 significant issue?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. You are aware that at</p> <p>6 some point, we already talked about it,</p> <p>7 Mr. Mapes became a consultant for the</p> <p>8 company, correct?</p> <p>9 A. Yes, he did.</p> <p>10 Q. Are you familiar with how he</p> <p>11 came to be a consultant?</p> <p>12 A. I don't recall. And that</p> <p>13 was -- that happened over my head.</p> <p>14 Q. So that's -- that was going</p> <p>15 to be my question, if you were involved</p> <p>16 in the discussions at all.</p> <p>17 A. Not that I recall.</p> <p>18 Q. Okay. You testified that</p> <p>19 you felt like you had a close</p> <p>20 relationship with him, correct?</p> <p>21 A. Yeah. We worked closely.</p> <p>22 Q. Okay. Were there other</p> <p>23 people at the company who had a close</p> <p>24 relationship with Mr. Mapes?</p>	<p>Page 246</p> <p>1 Q. Were you close with</p> <p>2 Mr. Zimmerman?</p> <p>3 A. Well, I've worked with him</p> <p>4 for the -- the entire time that I've been</p> <p>5 with the company, so I know Chris well.</p> <p>6 Q. Okay. And you moved -- you</p> <p>7 both shared moving from California to</p> <p>8 here, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. Do you interact with</p> <p>11 Mr. Zimmerman outside of work?</p> <p>12 MR. NICHOLAS: Objection.</p> <p>13 But go ahead.</p> <p>14 THE WITNESS: On occasion.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay. Not often though?</p> <p>17 MR. NICHOLAS: Same</p> <p>18 objection. Go ahead.</p> <p>19 THE WITNESS: I would say</p> <p>20 not often.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Okay. How about Kyle</p> <p>23 Wright, another DEA agent. Have you</p> <p>24 heard of him?</p>
<p>1 MR. NICHOLAS: Object to the</p> <p>2 form.</p> <p>3 THE WITNESS: Yeah, he</p> <p>4 worked with us on all the team</p> <p>5 members pretty closely.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Mr. Mays, did he have a</p> <p>8 close relationship with him too?</p> <p>9 MR. NICHOLAS: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: I can't really</p> <p>12 speak to how David Mays'</p> <p>13 relationship, what it was with</p> <p>14 Mike. I think -- I know he worked</p> <p>15 with him.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Okay. How about</p> <p>18 Mr. Zimmerman?</p> <p>19 MR. NICHOLAS: Same</p> <p>20 objection.</p> <p>21 THE WITNESS: Same answer.</p> <p>22 I can't really speak to how he,</p> <p>23 you know, worked with Mike.</p> <p>24 BY MR. PIFKO:</p>	<p>Page 247</p> <p>1 A. The name rings a bell, but I</p> <p>2 cannot put his name to a face.</p> <p>3 Q. Okay. Do you feel like</p> <p>4 you've heard the name before though?</p> <p>5 MR. NICHOLAS: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: Yeah, vaguely.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Okay. We talked about --</p> <p>10 you mentioned that in 2005, you took on</p> <p>11 some role as performing investigations</p> <p>12 for the company, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. Do you remember how</p> <p>15 you came to -- you said that that was an</p> <p>16 additional responsibility that you took</p> <p>17 on. Do you remember saying that?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Okay. Do you remember how</p> <p>20 you came on to take on that additional</p> <p>21 responsibility?</p> <p>22 A. It was so long ago. It was</p> <p>23 13 years ago. I know it was assigned to</p> <p>24 me as a collateral duty in addition to my</p>

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<p>1 audit responsibilities and my 2 responsibilities for my region. But I 3 don't remember how it actually came to 4 me.</p> <p>5 Q. Are you aware that Mr. Mays 6 had a meeting with Mr. Mapes and Kyle 7 Wright in August of 2005?</p> <p>8 A. No.</p> <p>9 Q. Mr. Mays traveled to D.C. to 10 meet with them to discuss internet 11 pharmacies. Do you remember hearing 12 about that meeting?</p> <p>13 A. I don't recall that.</p> <p>14 Q. Okay. Do you recall 15 Mr. Mays coming to you and -- and saying 16 the -- the DEA was interested in 17 increasing the level of due diligence 18 that distributors should be conducting on 19 their customers as a result of internet 20 pharmacy concerns?</p> <p>21 A. No, I don't recall that.</p> <p>22 Q. Mr. Mays received a 23 presentation from the DEA at that time 24 concerning due diligence and regulatory</p>	<p>1 form. Go ahead.</p> <p>2 THE WITNESS: It would just 3 be the lead team, regional 4 directors, our senior director, 5 and Chris would be involved in 6 those meetings.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. So you said at any 9 particular time there would be four to 10 five regional directors?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So -- and then your 13 boss, and then Mr. Zimmerman might attend 14 as well?</p> <p>15 A. Yes.</p> <p>16 Q. So maybe seven or eight 17 people?</p> <p>18 A. Yeah. It seemed like -- 19 yeah, it would mainly be the regional 20 directors, Steve, Chris, and I think the 21 investigations team would sometimes sit 22 in on those meetings. But generally 23 speaking, yeah, that would be the core 24 group that would meet.</p>
<p>1 requirements and internet pharmacies. Do 2 you know if he shared that with you at 3 that time in 2005?</p> <p>4 MR. NICHOLAS: Object to the 5 form.</p> <p>6 THE WITNESS: If he did, I 7 don't remember it.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Okay. You said that from 10 time to time you had in-person meetings 11 with members of your team, the other 12 regional directors and managers?</p> <p>13 A. Yes.</p> <p>14 Q. How frequently did you meet?</p> <p>15 A. We would have annual 16 meetings. I don't remember when they 17 started. But I know we did that for a 18 long period of time.</p> <p>19 Q. And those were in person?</p> <p>20 A. Yeah. They would all come 21 to Chesterbrook.</p> <p>22 Q. Okay. And then how many 23 people would attend those meetings?</p> <p>24 MR. NICHOLAS: Object to the</p>	<p>1 Page 251</p> <p>2 Q. The investigations team, 3 that's Bruce Gundy's team?</p> <p>4 A. Yes.</p> <p>5 Q. And how many people were on 6 that team?</p> <p>6 A. It varied over the years. I 7 don't recall exactly. We had 8 investigators that worked for him for a 9 number of years. I don't remember the 10 number.</p> <p>11 Q. So in addition to these 12 in-person meetings, did you have 13 telephone conversations regularly with 14 the team?</p> <p>15 A. Yes. We would -- we would 16 communicate regularly with each other.</p> <p>17 Q. Just informally or did you 18 have like a formal weekly or monthly 19 telephone call?</p> <p>20 A. I think we had a formal team 21 call. It might have been weekly. It 22 might have been biweekly. It might have 23 been monthly. I think it changed over a 24 period of years. So that's really --</p>

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<p>1 have a formal meeting, and then we would 2 talk to each other, you know, on an 3 informal basis as well.</p> <p>4 Q. So did you guys e-mail with 5 each other as well?</p> <p>6 A. Yes.</p> <p>7 Q. Very often?</p> <p>8 MR. NICHOLAS: Object to the 9 form.</p> <p>10 THE WITNESS: Pretty 11 regularly.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. If there was a new thing 14 that was being rolled out, would you guys 15 discuss that over e-mail?</p> <p>16 MR. NICHOLAS: Object to the 17 form.</p> <p>18 THE WITNESS: It would 19 depend. But we communicated 20 regularly.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Okay. So you don't recall 23 Mr. Mays ever coming back and telling any 24 members of the team -- I know you said</p>	<p>1 So when we would audit 2 their -- excuse me. When we would audit 3 their distribution centers, obviously we 4 would work with them closely on the 5 results.</p> <p>6 Q. You held your role for 7 13 years. Did the other people in the 8 other regions have a long tenure in their 9 positions as well?</p> <p>10 A. Yeah, for the most part.</p> <p>11 Yeah. Everybody with AmerisourceBergen 12 generally stays for a long time. There's 13 very little attrition with our company.</p> <p>14 Q. When we talk about 15 interacting with people over the e-mail 16 and telephone and these annual in-person 17 meetings, it's -- the people involved 18 were the names that you just listed for 19 the most part?</p> <p>20 MR. NICHOLAS: Object to the 21 form.</p> <p>22 THE WITNESS: For the most 23 part. There were other people 24 that came and left. But those</p>
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<p>1 you specifically, but my question is, do 2 you recall whether Mr. Mays had a meeting 3 with the team at any point saying the DEA 4 is concerned about suspicious order 5 requirements and internet pharmacies and, 6 you know, they want us to take on some 7 additional due diligence efforts?</p> <p>8 MR. NICHOLAS: Object to the 9 form.</p> <p>10 THE WITNESS: It's been so 11 many years. I just don't recall.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Okay. Who were some of the 14 other counterparts that you interacted 15 with who held these positions, regional 16 director positions?</p> <p>17 A. The names?</p> <p>18 Q. Yeah.</p> <p>19 A. I think I named them before. 20 There was Greg Madsen, Erica Burwell, 21 Cathy Marcum. There was a guy named John 22 Gibson, who has since left the company. 23 More recently Tony Droz is one of the 24 newer directors that I worked with a lot.</p>	<p>1 were the main people that were 2 there the long-term.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Okay. I'm going to hand you 5 a document.</p> <p>6 So you recall also that you 7 said that one of your jobs was to -- 8 after the Amerisource and Bergen 9 corporation merger, was to get the 10 licensing and regulatory filings of all 11 the distribution centers in order; is 12 that correct?</p> <p>13 MR. NICHOLAS: Object to the 14 form.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: Yeah.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Okay.</p> <p>19 A. Yeah, the licensing portion 20 of my responsibility which ended shortly 21 thereafter. But yes.</p> <p>22 Q. Okay. And as part of that 23 effort you had to look into the files of 24 the other distribution centers to get</p>

<p style="text-align: right;">Page 258</p> <p>1 everything together?</p> <p>2 A. Yeah, we maintained all the</p> <p>3 licensing in electronic format for all</p> <p>4 the distribution centers.</p> <p>5 Q. And that was something that</p> <p>6 you reviewed as part of that effort?</p> <p>7 A. Well, I renewed them.</p> <p>8 Q. Right, but in order to</p> <p>9 perform the renewal, you had to look</p> <p>10 at --</p> <p>11 MR. NICHOLAS: I think he</p> <p>12 thought -- I thought -- I think he</p> <p>13 thought you said renewed. And it</p> <p>14 was renewed/reviewed thing.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay. Okay. So all I was</p> <p>17 asking is if you reviewed the records</p> <p>18 when you were renewing the licenses.</p> <p>19 A. Well, we had the licenses.</p> <p>20 There wasn't much to review. We just --</p> <p>21 we knew that they expired, generally</p> <p>22 speaking, once a year. So we would have</p> <p>23 to renew those -- those licenses, you</p> <p>24 know, periodically. So that was a lot of</p>	<p style="text-align: right;">Page 260</p> <p>1 separate checks, we had one big check and</p> <p>2 one big application, yes.</p> <p>3 Q. Okay. What kind of -- do</p> <p>4 you remember the kinds of information</p> <p>5 that are called for on the application?</p> <p>6 A. The DEA batch renewal was</p> <p>7 pretty straightforward. There was only</p> <p>8 about five questions on there. The state</p> <p>9 applications would vary from state to</p> <p>10 state. They were -- they spanned from</p> <p>11 little to big. So -- and again, that was</p> <p>12 so long ago. You know, the questions</p> <p>13 varied.</p> <p>14 Q. When you're renewing a</p> <p>15 license, is there any discussion of</p> <p>16 compliance activities that occurred at</p> <p>17 the facility as far as whether the</p> <p>18 license should be renewed?</p> <p>19 MR. NICHOLAS: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: Yeah, I think</p> <p>22 some -- some applications ask</p> <p>23 questions about previous</p> <p>24 discipline.</p>
<p style="text-align: right;">Page 259</p> <p>1 work involved in that.</p> <p>2 Q. Okay. What's the -- what</p> <p>3 was the nature of the work that goes --</p> <p>4 involved -- into a renewal of a license?</p> <p>5 A. Mainly filling out the</p> <p>6 application. Those applications would</p> <p>7 have various questions on them. We would</p> <p>8 have to fill them out one at a time. You</p> <p>9 know, the states have their own renewal</p> <p>10 application. The DEA switched over to</p> <p>11 batch renewal, so that was a lot easier.</p> <p>12 Just -- just really</p> <p>13 completing the application and cutting</p> <p>14 the checks.</p> <p>15 Q. Batch renewal, that's the</p> <p>16 way that a company that is that has</p> <p>17 multiple licenses can renew them all in</p> <p>18 one -- in one setting?</p> <p>19 A. Exactly.</p> <p>20 Q. So you use one application,</p> <p>21 maybe it has discussions about the</p> <p>22 various registrations, but a centralized</p> <p>23 way of submitting it?</p> <p>24 A. Yeah, instead of having 26</p>	<p style="text-align: right;">Page 261</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Okay. Do you remember</p> <p>3 looking into that when you were in charge</p> <p>4 of renewing the licenses?</p> <p>5 A. Yeah. That was one of</p> <p>6 the -- one of the things that we -- that</p> <p>7 we reviewed as part of completing it,</p> <p>8 yeah.</p> <p>9 (Document marked for</p> <p>10 identification as Exhibit</p> <p>11 AmerisourceBergen-Cherveny-1.)</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. So I'm handing you what's</p> <p>14 marked as Exhibit 1. For the record,</p> <p>15 it's a few-page document, Bates-labeled</p> <p>16 ABDCMDL00146183 through 146186. And it's</p> <p>17 an e-mail attaching a memorandum of</p> <p>18 understanding from April 20th, 2000. And</p> <p>19 the e-mail is dated December 11, 2013,</p> <p>20 from the witness to Bruce Gundy. It</p> <p>21 talks about a Columbus MOU.</p> <p>22 Take a minute to review</p> <p>23 that, and let me know when you're -- when</p> <p>24 you're done.</p>

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<p>1 A. Okay.</p> <p>2 Q. Do you remember discussing</p> <p>3 this MOU with Mr. Gundy?</p> <p>4 A. No, I do not.</p> <p>5 Q. Okay. Do you have any</p> <p>6 reason to dispute that you had the</p> <p>7 discussion with Mr. Gundy about this MOU?</p> <p>8 MR. NICHOLAS: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: No. The</p> <p>11 document indicates that I</p> <p>12 forwarded this document to him.</p> <p>13 So I wouldn't dispute that.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Okay. Do you remember</p> <p>16 looking into what this MOU was about?</p> <p>17 A. No.</p> <p>18 Q. The title of the document as</p> <p>19 referenced in the first page,</p> <p>20 ABDCMDL146183 it has the attachment, the</p> <p>21 subject is "Columbus MOU."</p> <p>22 Do you see that?</p> <p>23 A. Yes, I do.</p> <p>24 Q. Do you have an understanding</p>	<p>1 A. Yes, I do.</p> <p>2 Q. Do you have an understanding</p> <p>3 about what that alleged prohibited act</p> <p>4 was about?</p> <p>5 A. With regard to this</p> <p>6 particular MOU?</p> <p>7 Q. Yes.</p> <p>8 A. It happened in 2000. It's</p> <p>9 just so long ago. I don't recall this</p> <p>10 particular occurrence.</p> <p>11 Q. Okay. Item 4 here says,</p> <p>12 "Failed to adequately supervise employees</p> <p>13 having access to storage areas resulting</p> <p>14 in a breach of confidentiality concerning</p> <p>15 criminal investigation required by 21</p> <p>16 C.F.R. 1301.71(b)11."</p> <p>17 Do you see that?</p> <p>18 A. Wait, which -- which</p> <p>19 section, which --</p> <p>20 Q. 4.</p> <p>21 A. Number 4. Yes, I see that.</p> <p>22 Q. Okay. Do you have an</p> <p>23 understanding about that -- what that</p> <p>24 alleged prohibited act was about?</p>
<p>1 about whether this was specific to a</p> <p>2 facility in Columbus?</p> <p>3 A. Yes. It looks like it was</p> <p>4 an -- it was an MOU for our Columbus</p> <p>5 distribution center.</p> <p>6 Q. Okay. It's got here --</p> <p>7 going to MDL -- ABDCMDL00146184, it tells</p> <p>8 -- it says, "The notice of hearing allege</p> <p>9 that prohibited acts occurred in</p> <p>10 violation of the Comprehensive Drug</p> <p>11 Enforcement Administration Abuse</p> <p>12 Prevention and Control Act of 1970 and</p> <p>13 the regulations promulgated thereunder,</p> <p>14 namely that the respondent, Amerisource</p> <p>15 Corporation has" -- and then it's got</p> <p>16 four issues here.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And one of them is,</p> <p>20 "Failed to provide effective controls and</p> <p>21 procedures to guard against the theft and</p> <p>22 diversion of controlled substances</p> <p>23 required by 21 C.F.R. 1301.71(a)."</p> <p>24 Do you see that?</p>	<p>1 A. No. April 2000. That was a</p> <p>2 long time ago. I don't recall this.</p> <p>3 Q. You, as part of your job,</p> <p>4 we've talked, you've had some</p> <p>5 responsibilities for discharging the</p> <p>6 company's compliance with certain</p> <p>7 controlled substances laws, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Do you have a</p> <p>10 familiarity with what 21 C.F.R. 1301.71</p> <p>11 (b)11 is?</p> <p>12 MR. NICHOLAS: Object to the</p> <p>13 form.</p> <p>14 THE WITNESS: Reference to</p> <p>15 Item 4?</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Yeah. That citation, is</p> <p>18 that --</p> <p>19 A. No, I --</p> <p>20 Q. -- something that you're</p> <p>21 familiar with?</p> <p>22 A. Unless I had it in front of</p> <p>23 me, I wouldn't -- I wouldn't want to</p> <p>24 speculate what that regulation states</p>

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<p>1 exactly.</p> <p>2 Q. Okay. How about 1301.71(a),</p> <p>3 do you know what that's about?</p> <p>4 MR. NICHOLAS: Same</p> <p>5 objection.</p> <p>6 THE WITNESS: I would want</p> <p>7 to see the regulations before I</p> <p>8 comment on it.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. As part of your working to</p> <p>11 put all the facilities together and</p> <p>12 applying for the licenses, do you recall</p> <p>13 uncovering this when you were doing the</p> <p>14 transition?</p> <p>15 MR. NICHOLAS: Objection.</p> <p>16 Object to the form.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. No?</p> <p>20 Do you know if any money was</p> <p>21 paid in connection with this?</p> <p>22 A. It states anything here --</p> <p>23 no, I don't know.</p> <p>24 Q. It says here at the 146185,</p>	<p>1 steps were taken.</p> <p>2 Q. Do you recall anything</p> <p>3 unique to the Columbus facility as far as</p> <p>4 how they were performing their duties or</p> <p>5 procedures when you first came into the</p> <p>6 role as regional director?</p> <p>7 A. No.</p> <p>8 Q. It's got some names here of</p> <p>9 people who, quote, appear -- "appearing</p> <p>10 on behalf of the respondent." Do you see</p> <p>11 that at the top of the page?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Do you know who</p> <p>14 Rodney Bias is?</p> <p>15 A. Yes, I knew Rodney.</p> <p>16 Q. Okay. What was his role?</p> <p>17 A. He was, I believe, director</p> <p>18 of regulatory compliance for Amerisource</p> <p>19 at the time of the merger.</p> <p>20 Q. And do you know what</p> <p>21 happened to him after -- after the</p> <p>22 merger?</p> <p>23 A. He subsequently left the</p> <p>24 company. I don't remember when exactly.</p>
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<p>1 "The respondents having been fully</p> <p>2 advised of the prohibited acts which have</p> <p>3 occurred have agreed to comply with the</p> <p>4 provisions of the comprehensive Drug</p> <p>5 Enforcement Administration Abuse,</p> <p>6 Prevention and Control Act of 1970 and</p> <p>7 the regulations issued thereunder</p> <p>8 hereafter set forth." And then it's got</p> <p>9 four items.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. It says, "Respondent</p> <p>13 will provide effective controls and</p> <p>14 procedures to guard against theft and</p> <p>15 diversion of controlled substances</p> <p>16 required by 21 C.F.R. 1301.71(a)."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have any</p> <p>20 understanding about what steps were taken</p> <p>21 to comply with that?</p> <p>22 A. No. Having been so long</p> <p>23 ago, you know, 18 years ago, I don't</p> <p>24 recall this at all. So I don't know what</p>	<p>1 Q. Did you interact with him</p> <p>2 regularly, or he wasn't someone that you</p> <p>3 worked with?</p> <p>4 A. No, I worked with him pretty</p> <p>5 regularly when he was with the company.</p> <p>6 Q. Okay. Do you have an</p> <p>7 estimate about when he left the company?</p> <p>8 A. No.</p> <p>9 Q. How about Brent Wilheim of</p> <p>10 the Columbus operations manager. Do you</p> <p>11 know who that is?</p> <p>12 A. Yeah, vaguely. It was a</p> <p>13 long time ago.</p> <p>14 Q. Was that someone that you</p> <p>15 interacted with?</p> <p>16 A. Not as much as Rodney.</p> <p>17 Rodney was a member of the corporate</p> <p>18 regulatory team. And Brent was an</p> <p>19 operations manager of the DC, so I would</p> <p>20 have a lot less interaction with him.</p> <p>21 Q. Any of these people, John</p> <p>22 Briney, Frieda Hein, did you interact</p> <p>23 with any of them?</p> <p>24 A. Yeah, Frieda was the</p>

<p style="text-align: right;">Page 270</p> <p>1 compliance office, she was the compliance 2 manager, I worked with her. 3 Q. Okay. 4 A. I don't remember John 5 Briney. 6 Q. Frieda, how long did you -- 7 over your tenure do you recall working 8 with her? 9 A. Several years. I don't 10 remember specific dates. 11 Q. At some point she left the 12 company? 13 A. I believe so, yeah. 14 Q. Have you talked to Rodney or 15 Frieda in -- at any time in the last few 16 years? 17 A. No. 18 Q. It's got some people who are 19 identified as appearing on behalf of the 20 DEA below that. Do you see that? 21 A. Yes. 22 Q. Do you know who any of those 23 people are? 24 A. I remember Helen Kaupang.</p>	<p style="text-align: right;">Page 272</p> <p>1 they report up to a program manager. So 2 they would be sort of the equivalent of 3 a -- of a -- like our distribution 4 center. And then, you know, the program 5 manager would be equivalent to like a 6 regional director. So within DEA, that's 7 the way I would -- I would explain their 8 roles. So she was in charge of that DEA 9 office that had that jurisdiction over -- 10 over that geographic area. 11 Q. You talked about your 12 closeness with Mr. Mapes. Did you feel 13 that you had a closeness with her? 14 MR. NICHOLAS: Object to the 15 form. 16 THE WITNESS: No, not as 17 much. 18 BY MR. PIFKO: 19 Q. Okay. Did you ever pick up 20 the phone and ask her compliance 21 questions? 22 A. Not that I recall. 23 Q. Do you recall if you ever 24 sent her any letters or e-mails asking</p>
<p style="text-align: right;">Page 271</p> <p>1 She was the group supervisor of the 2 Columbus office I believe, so I did work 3 with her. 4 Q. Okay. You worked with her 5 somewhat regularly? 6 A. She was the group supervisor 7 for the -- for the DEA that held 8 jurisdiction for our distribution center. 9 So I worked with her several times 10 throughout my tenure while I had that 11 distribution center. 12 Q. She was in that position as 13 long as you could remember while you 14 were -- you had your role? 15 A. Yeah, I don't remember what 16 years. But I remember -- I remember the 17 name and I remember working with her. 18 Q. When you say group 19 supervisor, that's what it says here on 20 the page, what -- what does that -- what 21 is your understanding of what that 22 entailed? 23 A. The group supervisors are in 24 charge of the -- of the field office, and</p>	<p style="text-align: right;">Page 273</p> <p>1 her compliance questions? 2 A. No. She was a -- she was a 3 group supervisor and Mike was at 4 headquarters. So Mike would have been a 5 more appropriate person because he was -- 6 he was in charge of the programs. So I 7 did not have as much interaction with her 8 as I had with Mike. 9 Q. So you knew that if you 10 wanted guidance from the DEA, it would be 11 more appropriate to ask someone at 12 headquarters than someone at a regional 13 level? 14 A. Yeah. Their -- their 15 opinion would carry more weight from our 16 standpoint as a wholesaler. 17 Q. Let's go back to 18 the additional investigation 19 responsibility that you took on in 2005. 20 What -- I asked you if you remembered how 21 you kind of came to take that on. You 22 said you didn't really have a clear 23 direct remembrance of the meeting or 24 specific thing. But you just remember</p>

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<p>1 that you took it on, correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. So, what specifically</p> <p>4 were these additional investigation</p> <p>5 responsibilities that you took on at that</p> <p>6 time?</p> <p>7 A. So the report that I</p> <p>8 reviewed that generated periodically was</p> <p>9 called the possible suspicious order</p> <p>10 report. So that report was generated</p> <p>11 based on pre-set parameters, and it would</p> <p>12 come to my office. I would separate it</p> <p>13 by customer, and I would conduct separate</p> <p>14 investigations pursuant to that report,</p> <p>15 to those customers.</p> <p>16 Q. Do you know how that report</p> <p>17 was generated?</p> <p>18 A. I don't recall. I don't</p> <p>19 recall the parameters and I don't recall</p> <p>20 how it was generated. I just know that</p> <p>21 it was generated and it came to my</p> <p>22 office.</p> <p>23 Q. Do you know if that was a</p> <p>24 report that was generated prior to you</p>	<p>1 A. I know it was periodic. I</p> <p>2 don't remember the frequency.</p> <p>3 Q. Who told you that your new</p> <p>4 responsibility was to look at this</p> <p>5 report?</p> <p>6 A. I believe it was Steve Mays.</p> <p>7 Q. And you know it was in 2005?</p> <p>8 A. I believe it was within that</p> <p>9 two-year period, from 2005 to 2007. But</p> <p>10 again that was a long time ago. That's</p> <p>11 just my recollection.</p> <p>12 Q. How would this report come</p> <p>13 to you, by -- by e-mail?</p> <p>14 A. No, it would come in</p> <p>15 hardcopy.</p> <p>16 Q. Okay. Through like</p> <p>17 interoffice mail?</p> <p>18 A. Yeah, I don't know where it</p> <p>19 was generated from. But I know that it</p> <p>20 was -- it would end up on my desk at the</p> <p>21 predesignated time, you know, at the</p> <p>22 frequency that it was established for.</p> <p>23 Q. Okay. So if it was like</p> <p>24 every week on a Friday when that would</p>
<p style="text-align: center;">Page 275</p> <p>1 having the involvement with it and then</p> <p>2 you were just a new person that was</p> <p>3 reviewing it and it had been produced</p> <p>4 before and others had reviewed it?</p> <p>5 MR. NICHOLAS: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: I honestly</p> <p>8 don't recall. It was so long ago.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Do you -- that was kind of a</p> <p>11 longwinded question. Do you understand</p> <p>12 my question?</p> <p>13 Did you understand -- I</p> <p>14 think -- I think I know what you're going</p> <p>15 to say but I'll just ask it for clarity.</p> <p>16 Do you understand that that</p> <p>17 report existed before you became involved</p> <p>18 with interacting with that report?</p> <p>19 A. I can't confirm knowledge</p> <p>20 that that report existed prior to my</p> <p>21 taking on that investigative</p> <p>22 responsibility.</p> <p>23 Q. How frequently would this</p> <p>24 report get sent to you?</p>	<p style="text-align: center;">Page 277</p> <p>1 come, or once a month, whatever, it came</p> <p>2 with that regularity and someone would</p> <p>3 deliver it to you?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 Go ahead.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Okay. And then it was your</p> <p>10 job to look at the -- I'm sorry if I</p> <p>11 didn't -- if I didn't hear you, the</p> <p>12 orders or the customers that were on this</p> <p>13 list?</p> <p>14 A. It was -- it was orders and</p> <p>15 it was broken down by customers.</p> <p>16 Q. Okay. So it was your job to</p> <p>17 look at all the orders on this list?</p> <p>18 A. Yes.</p> <p>19 Q. And how did you know, did</p> <p>20 someone train you about what you were</p> <p>21 supposed to look for when you were</p> <p>22 looking at this?</p> <p>23 A. I don't remember</p> <p>24 specifically how I was instructed to --</p>

<p style="text-align: right;">Page 278</p> <p>1 to review the report. I don't remember 2 how I was instructed. 3 Q. Do you know who would have 4 given you the instructions? 5 A. I believe Steve would have 6 done that. 7 Q. Okay. And so tell me what 8 your recollection of what you were 9 supposed to look at on this report was. 10 A. So the report contained 11 sales data for customers. And I believe 12 it was Oxycodone and hydrocodone 13 products. If they breached a parameter, 14 it would trigger this report to be 15 generated. So I got the report 16 periodically and it may have been, you 17 know, I don't remember how much it was, 18 but I would separate it by customer, 19 because it would be, I believe 20 alphabetical or it might have been by DEA 21 number. But it would basically be, you 22 know, one customer, then another 23 customer, and it would just be -- it 24 would span multiple customers in</p>	<p style="text-align: right;">Page 280</p> <p>1 investigation report. 2 Q. Okay. And then would you 3 save that somewhere? 4 A. Yeah. I believe it was 5 maintained in Law Track. 6 Q. And then was there a goal of 7 the investigation that you were trying to 8 determine something? 9 MR. NICHOLAS: Object to the 10 form. 11 THE WITNESS: We were trying 12 to determine if any improprieties 13 were happening with regard to 14 those orders. I would -- I would 15 collect all the information that 16 I -- that I could from the 17 customer to explain, you know, the 18 reasoning as to why they were 19 buying that quantity of controls, 20 and I would take the findings and 21 I would, you know, provide it to 22 Steve Mays. And what he did with 23 it, you know, I'm not sure. 24 Because at that point the</p>
<p style="text-align: right;">Page 279</p> <p>1 grouping. So I would group them in 2 separate -- in separate files and then I 3 would conduct the investigation of those 4 customers. 5 Q. Okay. And then what -- what 6 things would you do to conduct the 7 investigation of those customers? 8 A. I had a couple support staff 9 within the CSRA department that I used to 10 assist me with this, that I would work 11 with those individuals to contact the 12 sales executive, to contact the customer 13 to inquire as to why they were buying, 14 you know, that quantity of controlled 15 substances. We would collect all the 16 information on the customer. We would 17 take their responses to our questions and 18 our follow-up questions, and we would 19 complete an investigation of each 20 customer. 21 Q. Would there be some sort of 22 document that you would create at the 23 culmination of your investigation? 24 A. Yeah. It would be an</p>	<p style="text-align: right;">Page 281</p> <p>1 decision -- the decisionmaking 2 regarding my investigation that I 3 completed was conducted, you know, 4 outside of my realm. So I'm not 5 sure what the -- what the -- what 6 the results of those -- those 7 investigations entailed. 8 BY MR. PIFKO: 9 Q. Did you make any 10 recommendations for actions in the 11 report? 12 A. You know, it's been so long 13 ago, I don't recall. 14 Q. Do you recall if one of the 15 things that you were evaluating was 16 whether to fill the order? 17 A. Well, keep in mind this was 18 a system that we operated that was 19 prior -- prior to the system that held 20 orders. 21 Q. Okay. 22 A. So this was investigations 23 that occurred after the shipment was 24 already completed.</p>

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<p>1 Q. Okay. So it's your 2 understanding that all these orders and 3 in the possible suspicious order report 4 had already been shipped; is that 5 correct?</p> <p>6 A. Yes. Those were -- those 7 were orders that have already been 8 shipped. That's correct.</p> <p>9 Q. Okay. And you would look at 10 it to evaluate whether there were 11 concerns, and you would generate a 12 report, but you didn't make any 13 recommendations for a course of action 14 going forward; is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. You provided that to Steve 17 Mays, the report?</p> <p>18 A. Yes. I believe I give it 19 directly to Steve Mays.</p> <p>20 Q. Did you send it by e-mail?</p> <p>21 A. I don't recall. We may have 22 just put it in the Law Track system and 23 he retrieved it from there. I don't 24 recall how I gave it to him.</p>	<p>1 for. Sometimes we would contact 2 the customer, and it would take 3 them time to respond to us. So it 4 would depend on the investigation, 5 anywhere from, you know, best case 6 scenario, a couple days to maybe a 7 couple weeks, just off the top of 8 my head. But I -- it's been so 9 long I don't recall.</p> <p>10 MR. PIFKO: Okay. Thank 11 you. We'll take a break.</p> <p>12 THE VIDEOGRAPHER: Going off 13 the record. 2:32 p.m.</p> <p>14 (Short break.)</p> <p>15 THE VIDEOGRAPHER: Back on 16 record, 3:07 p.m.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Welcome back.</p> <p>19 A. Thank you.</p> <p>20 Q. I want to talk about your 21 educational background and training for a 22 little bit. Okay?</p> <p>23 A. Yeah.</p> <p>24 Q. All right. So earlier we</p>
<p>1 Q. Do you recall about how long 2 it would take you to conduct an 3 investigation of a customer that was 4 identified in this report?</p> <p>5 A. I don't recall.</p> <p>6 Q. Is it like -- put me in your 7 shoes. I'm sitting -- I'm sitting at 8 your desk. Is it like a thing that takes 9 a week, and you're kind of doing it off 10 and on? Is it something that you sit 11 down and do in a few hours? Do you do it 12 all day? Can you explain to me how long 13 the process took in that regard?</p> <p>14 MR. NICHOLAS: Object to the 15 form.</p> <p>16 You can go ahead and answer.</p> <p>17 Can we a break soon, Mark, 18 maybe after this question?</p> <p>19 MR. PIFKO: Yeah.</p> <p>20 MR. NICHOLAS: Okay. Go 21 ahead.</p> <p>22 THE WITNESS: Yeah, the -- 23 it would depend on how quickly we 24 got the information that we asked</p>	<p>1 talked that you -- let me make sure I 2 have a clear understanding. You went to 3 high school, graduated high school. Then 4 you went to Golden West College for a 5 year, and then you decided to join the 6 Navy, and did that, and then you got a 7 job with Amerisource -- or with the 8 Bergen Corporation, correct?</p> <p>9 A. Yes.</p> <p>10 Q. How long were you in the 11 Navy?</p> <p>12 A. Five years.</p> <p>13 Q. And you had the same 14 controller job during the entire duration 15 of your service?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So when you got to 18 the Bergen Corporation, you started as a 19 security guard, you said, correct?</p> <p>20 A. Security officer. Yes.</p> <p>21 Q. Okay. And then when you 22 moved into the regional manager director 23 position, did you get any specific 24 training?</p>

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<p>1 A. Yes. I basically 2 accompanied other auditors on audits, and 3 those people that had been with the 4 company ran through the audit checklist 5 with me and all related duties that I 6 would have.</p> <p>7 Q. So when you first took on 8 that role, your primary job was 9 conducting the audits?</p> <p>10 A. Conducting the audits and 11 managing my region.</p> <p>12 Q. Okay. What else -- what 13 else do you mean by managing your region?</p> <p>14 A. Well, the compliance 15 managers would report up to me. So any 16 day-to-day occurrences that needed 17 attention, you know, I would have to 18 handle that. So that had a whole array 19 of areas that I had to -- had to respond 20 to.</p> <p>21 Q. Okay. So how many -- how 22 many compliance managers would be at a 23 particular distribution center?</p> <p>24 A. Only one.</p>	<p>1 A. Nope, I think that was it. 2 Q. And then 2005, you added the 3 investigation slate to your plate, as we 4 discussed before the break, correct? 5 A. Correct. 6 Q. And then you conducted those 7 investigations for how long? 8 A. I believe it was from 2005 9 and 2007.</p> <p>10 And I would like to make a 11 correction to my previous testimony. 12 Q. Okay. Is that based on a 13 discussion that you had during the break? 14 A. Just --</p> <p>15 MR. NICHOLAS: Objection. 16 Objection. I don't think you're 17 allowed to ask about any 18 conversation --</p> <p>19 MR. PIFKO: If he's going to 20 make a correction to his 21 testimony, I am.</p> <p>22 MR. NICHOLAS: Where does it 23 say -- I mean, where does it say 24 that? Hold on. Let me just</p>
<p>1 Q. So those people reported to 2 you. Anyone else who reported to you?</p> <p>3 A. No.</p> <p>4 Q. And then, sorry, I know we 5 had discussed it may be a bit, but how 6 many distribution centers would you have 7 under your wing at any one time?</p> <p>8 A. Anywhere between five and 9 eight, I think --</p> <p>10 Q. Okay.</p> <p>11 A. -- depending on which time 12 period it was.</p> <p>13 Q. So you had about five and 14 eight compliance managers who had to 15 report to you?</p> <p>16 A. Correct.</p> <p>17 Q. And so in addition to 18 conducting the audits, you had to deal 19 with any issues they raised to you, any 20 personnel issues, and things like that as 21 well?</p> <p>22 A. Yes.</p> <p>23 Q. Anything else that was part 24 of your job at that time?</p>	<p>1 find -- let me just find the order 2 so we can be clear on --</p> <p>3 MR. PIFKO: Well, he's 4 making a correction.</p> <p>5 MR. NICHOLAS: What does 6 that have to do with this order?</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. What's the basis of your 9 correction, sir.</p> <p>10 MR. PIFKO: I don't need the 11 order.</p> <p>12 MR. NICHOLAS: Wait a 13 minute.</p> <p>14 Go ahead.</p> <p>15 MR. PIFKO: No, if he's 16 going to make a correction, I'm 17 asking him a question.</p> <p>18 THE WITNESS: The correction 19 was the report -- what the report 20 was called that I reviewed.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Okay. And what was the 23 basis for wanting to make that 24 correction?</p>
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<p>1 A. Just to correct the record.</p> <p>2 Q. No, but why did it come to</p> <p>3 you that you needed to correct the</p> <p>4 record? Did someone tell you at the</p> <p>5 break that the report had a different</p> <p>6 name?</p> <p>7 MR. NICHOLAS: I'm going to</p> <p>8 instruct him not to answer, based</p> <p>9 on this order.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Did AmerisourceBergen's</p> <p>12 lawyer tell you that the report had a</p> <p>13 different name during the break?</p> <p>14 MR. NICHOLAS: I'll instruct</p> <p>15 him not to answer based on this</p> <p>16 order.</p> <p>17 THE WITNESS: I'll take my</p> <p>18 attorney's advice.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Okay. The reason that you</p> <p>21 want to change the name of the order, is</p> <p>22 there a way that you can answer that</p> <p>23 question without revealing conversations</p> <p>24 with your lawyer?</p>	<p>1 report?</p> <p>2 MR. NICHOLAS: You can</p> <p>3 answer only to the extent that it</p> <p>4 doesn't -- you know, you can't</p> <p>5 talk about any conversations on</p> <p>6 the break.</p> <p>7 THE WITNESS: I just want to</p> <p>8 make a correction to the name of</p> <p>9 the report that I reviewed.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. I hear you, but that's not</p> <p>12 my question.</p> <p>13 My question is: How did you</p> <p>14 come to decide that you wanted to make a</p> <p>15 change to the name of the report?</p> <p>16 MR. NICHOLAS: Same</p> <p>17 instruction.</p> <p>18 THE WITNESS: I'll follow my</p> <p>19 attorney's advice and not answer</p> <p>20 that.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. You can't answer that</p> <p>23 question without talking about a</p> <p>24 communication that you had with your</p>
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<p>1 MR. NICHOLAS: I'm going to</p> <p>2 instruct him not to answer based</p> <p>3 on the order. The order is pretty</p> <p>4 clear. You can't inquire about</p> <p>5 any conversations during the</p> <p>6 break. Period.</p> <p>7 MR. PIFKO: I can, because</p> <p>8 it's clear that a change was</p> <p>9 required as a result of something</p> <p>10 that occurred during the break.</p> <p>11 MR. NICHOLAS: That's not --</p> <p>12 that's not true that anything is</p> <p>13 clear. I know what the order</p> <p>14 says. You've not allowed to</p> <p>15 inquire about a conversation --</p> <p>16 about any conversations at all</p> <p>17 during the break having to do with</p> <p>18 attorney -- between the attorneys</p> <p>19 and the witness. So just don't do</p> <p>20 it. Just ask him your --</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. How did you come to -- how</p> <p>23 did you come to realize that you wanted</p> <p>24 to make a change to the name to the</p>	<p>1 lawyer?</p> <p>2 MR. NICHOLAS: Same</p> <p>3 objection.</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. PIFKO: Okay. Well,</p> <p>6 obviously we'll deal with that.</p> <p>7 The record is what it is.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. What's the correction that</p> <p>10 you would like to make that obviously</p> <p>11 your counsel told you to make?</p> <p>12 MR. NICHOLAS: Hold on.</p> <p>13 Hold on. I'll object to the</p> <p>14 snarky comment --</p> <p>15 MR. PIFKO: It's the</p> <p>16 reality.</p> <p>17 MR. NICHOLAS: -- which</p> <p>18 is -- which is --</p> <p>19 MR. PIFKO: Bob, you've got</p> <p>20 a problem. We're already in the</p> <p>21 process of raising it to the</p> <p>22 court. You have a problem out of</p> <p>23 every other lawyer in this whole</p> <p>24 case of your coaching of</p>

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<p>1 witnesses. We're building the 2 record. But the transcripts are 3 very clear about your coaching and 4 your improper conduct.</p> <p>5 And I'm dead serious right 6 now. I will seek to have your pro 7 hac vice revoked from the case if 8 you can't comply with the rules. 9 That is a remedy that is 10 appropriate. And if you can't 11 comply with the rules, then that's 12 where we're going to go.</p> <p>13 I hope that we don't need 14 that. I think you're a nice 15 enough guy. But you really got to 16 tone it down. Okay? So that's 17 the end of this.</p> <p>18 MR. NICHOLAS: No, wait, 19 wait, wait. I want to wait till 20 you complete your statement before 21 I respond.</p> <p>22 MR. PIFKO: We're having -- 23 you're not responding. I'm 24 taking --</p>	<p>1 But that's the reality of the 2 situation.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. So what's the correction 5 that you want to make?</p> <p>6 MR. NICHOLAS: Before you 7 answer -- and you can answer. I 8 just want the record to be clear 9 that it is my view that there have 10 been extensive improper and 11 misleading questions asked 12 throughout the depositions that 13 I've been involved in.</p> <p>14 I only object when there is 15 a need to correct something which 16 is clearly misleading and 17 improper.</p> <p>18 MR. PIFKO: There's a way to 19 make objections. And you go 20 beyond what the way is.</p> <p>21 MR. NICHOLAS: That's your 22 opinion.</p> <p>23 MR. PIFKO: No, it's 24 obvious. When you state facts in</p>
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<p>1 MR. NICHOLAS: Well, bring 2 your --</p> <p>3 MR. PIFKO: -- a deposition 4 and you're interrupting the 5 deposition. Okay? We're not 6 doing this.</p> <p>7 MR. NICHOLAS: I didn't 8 interrupt the deposition.</p> <p>9 MR. PIFKO: Yeah, you did.</p> <p>10 MR. NICHOLAS: I 11 interposed --</p> <p>12 MR. PIFKO: You did.</p> <p>13 MR. NICHOLAS: -- an 14 objection.</p> <p>15 MR. PIFKO: Okay. And you 16 clearly -- you clearly coached the 17 witness to change the nature of 18 his testimony during the break. 19 It's very obvious from the record 20 that that's what occurred.</p> <p>21 That's obviously improper. 22 Everybody knows that. Okay. And 23 that's what you did. And we're 24 going to have to live with it.</p>	<p>1 your objection, you're going above 2 and beyond what you're supposed to 3 do when you make an objection. I 4 told you this at the last 5 deposition.</p> <p>6 MR. NICHOLAS: Have I done 7 it today?</p> <p>8 MR. PIFKO: No. You were 9 better until now. And you're 10 coaching the witness during the 11 break.</p> <p>12 MR. NICHOLAS: Well, that -- 13 okay. There's no basis for your 14 saying that.</p> <p>15 MR. PIFKO: There is.</p> <p>16 MR. NICHOLAS: If you want 17 to hear what he has to say, fine. 18 If you don't want to hear --</p> <p>19 MR. PIFKO: I'm trying to 20 get it out of him --</p> <p>21 MR. NICHOLAS: -- what he 22 has to say, fine. That's up to 23 you.</p> <p>24 MR. PIFKO: -- but you're</p>

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<p>1 obstructing me from getting it out 2 of him right now.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Okay. With that said, 5 what's the correction that you would like 6 to make?</p> <p>7 A. The report that I reviewed, 8 the periodic report that I referenced 9 earlier, I indicated that it was a 10 possible suspicious order report. It's 11 actually called the possible excessive 12 purchase report.</p> <p>13 Q. Okay.</p> <p>14 A. That's the correction.</p> <p>15 Q. But you remember it being 16 called the suspicious order report 17 because you were evaluating the 18 suspicious natures of the orders; is that 19 correct?</p> <p>20 MR. NICHOLAS: Object to the 21 form.</p> <p>22 THE WITNESS: No. We're 23 just talking multiple years since 24 I reviewed the report. So I just</p>	<p>1 know when that happened or how it 2 happened.</p> <p>3 Q. Are you aware that the 4 company has a duty to identify and report 5 suspicious orders?</p> <p>6 A. Yes. We have a 7 responsibility to report suspicious 8 orders.</p> <p>9 Q. And to identify them as 10 well?</p> <p>11 A. Well, I think reporting it 12 would be identifying them, wouldn't it?</p> <p>13 Q. Okay. Well, I just want to 14 make sure we are using the correct words 15 here.</p> <p>16 Okay. So you are aware that 17 that's a requirement that the company 18 has, correct?</p> <p>19 A. Yes, to review orders and 20 identify suspicious orders and block them 21 and report them.</p> <p>22 Q. Okay. Is that a new 23 requirement?</p> <p>24 A. No.</p>
<p>1 misunderstood -- I misremembered 2 what it was called.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Okay. Why did you think it 5 was called a possible suspicious order 6 report?</p> <p>7 A. I don't know. I just didn't 8 remember.</p> <p>9 Q. Do you have an understanding 10 what an order that exceeds the threshold 11 is?</p> <p>12 A. Well, it would depend.</p> <p>13 Q. Well, before 2007, are you 14 aware that the company reported all 15 orders that exceeded thresholds as 16 suspicious to the DEA?</p> <p>17 A. No. I don't know how those 18 reports were submitted and what was 19 submitted.</p> <p>20 Q. Are you aware that the 21 company reported suspicious orders to the 22 DEA before 2007?</p> <p>23 A. I did not know that. I 24 didn't know when it started. I didn't</p>	<p>1 Q. Okay. That's something that 2 you've always been required to do, 3 correct?</p> <p>4 MR. NICHOLAS: Object to the 5 form. Go ahead.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. As long as your tenure with 9 the company going back to the late '90s, 10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 A. Well, the regulation has 14 been -- has stated that since the early 15 '90s, yes.</p> <p>16 Q. So we were going -- we 17 were -- before we went into that sidebar, 18 we were discussing your training and some 19 of your responsibilities as the regional 20 manager.</p> <p>21 So you supervised about 22 eight compliance managers, five to eight, 23 depending on the time, and you were 24 responsible for conducting the audits,</p>

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<p>1 correct?</p> <p>2 A. Some of the audits, yeah.</p> <p>3 Q. Okay. Based on the schedule</p> <p>4 that was provided to you, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And you said that when you</p> <p>7 took over that role, you got sort of</p> <p>8 on-the-job training with people who had</p> <p>9 already had experience conducting the</p> <p>10 audits; is that correct?</p> <p>11 A. Yes, that's correct.</p> <p>12 Q. Did you have any formal</p> <p>13 training sessions, went through a</p> <p>14 presentation at the company, or online</p> <p>15 training or anything like that?</p> <p>16 A. I don't recall.</p> <p>17 Q. And we were talking about</p> <p>18 your job responsibilities in that you</p> <p>19 added this investigations in 2005, and</p> <p>20 then you stopped doing them in 2007.</p> <p>21 That -- that was taken off your plate,</p> <p>22 did I hear you correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And then from 2007 to</p>	<p>1 A. A combination.</p> <p>2 Q. Okay. These were annual</p> <p>3 meetings, you said?</p> <p>4 A. Yes.</p> <p>5 Q. How many people would attend</p> <p>6 them?</p> <p>7 A. A lot of people. All of the</p> <p>8 compliance managers with the company.</p> <p>9 And the corporate CSRA associates.</p> <p>10 Q. About how many people would</p> <p>11 that be at a particular time?</p> <p>12 A. It would depend on the</p> <p>13 number of distribution centers we had at</p> <p>14 that period.</p> <p>15 Q. Okay. Can you give me a</p> <p>16 range?</p> <p>17 A. Well, when we first merged</p> <p>18 we had 52 distribution centers. We</p> <p>19 merged those down to 26, and I think it</p> <p>20 stayed right in that level. So 26</p> <p>21 compliance managers along with corporate</p> <p>22 associates which would -- which would</p> <p>23 vary over time.</p> <p>24 Q. Did you interact with -- so</p>
<p>1 2015, your job was to manage the</p> <p>2 compliance managers and to conduct the</p> <p>3 audits?</p> <p>4 A. Yes.</p> <p>5 Q. Any other responsibilities?</p> <p>6 A. No. That pretty much took</p> <p>7 all my time.</p> <p>8 Q. Okay. And did you get any</p> <p>9 other specific training at that time?</p> <p>10 A. At what time?</p> <p>11 Q. After 2007.</p> <p>12 A. No, not that I recall.</p> <p>13 Q. Did you attend -- was there</p> <p>14 like any regular annual training or</p> <p>15 anything you attended?</p> <p>16 A. We would conduct annual</p> <p>17 conferences with the entire CSRA</p> <p>18 department. So training sessions were</p> <p>19 conducted during -- during those</p> <p>20 sessions.</p> <p>21 Q. Who gave those trainings?</p> <p>22 A. Various associates.</p> <p>23 Q. Managers, or people under</p> <p>24 you, or?</p>	<p>1 your -- you were under the CSRA</p> <p>2 department, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. But your area was</p> <p>5 just one area of the CSRA, correct?</p> <p>6 A. Well, I had a region, but</p> <p>7 there were other responsibilities that</p> <p>8 the CSRA department handled. But I was</p> <p>9 regulatory.</p> <p>10 Q. Right. So that's kind of</p> <p>11 what I'm trying to get at. So there</p> <p>12 was an -- was there an investigation</p> <p>13 group that was part of the CSRA that was</p> <p>14 Bruce Gundy's group?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Were there other</p> <p>17 groups -- and then there -- there was</p> <p>18 your group that Steve Mays was in charge</p> <p>19 of; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Was there another --</p> <p>22 any other groups that you're aware of?</p> <p>23 A. There was a physical</p> <p>24 security manager.</p>

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<p>1 Q. Okay. And what -- just one 2 person?</p> <p>3 A. He may have had somebody 4 that worked under him. I don't recall.</p> <p>5 Q. Okay. And what was his 6 role?</p> <p>7 A. To oversee all the physical 8 security of the distribution centers, 9 alarm components and such.</p> <p>10 Q. So from time to time would 11 you confer with him if you had an issue 12 of physical security at one of the 13 distribution centers under your audit 14 responsibility?</p> <p>15 A. Yes, I would.</p> <p>16 Q. What was his name?</p> <p>17 A. Bob Crow.</p> <p>18 Q. Was he in the -- that 19 position the whole time?</p> <p>20 A. Most of the time.</p> <p>21 Q. Do you remember who took 22 over his role?</p> <p>23 A. It was reassigned I believe 24 to -- to the distribution centers,</p>	<p>1 A. It was a week long, I think.</p> <p>2 Q. Okay. So you did that 3 full-time for that week for the -- it 4 wasn't like you were going to work and 5 then you'd go at night or something. You 6 went to that program for the week and 7 finished the course?</p> <p>8 A. Correct.</p> <p>9 Q. Okay.</p> <p>10 A. Took my whole time for that 11 week.</p> <p>12 Q. Where was that located?</p> <p>13 A. It was in the city, here in 14 Philadelphia.</p> <p>15 Q. Any other training that you 16 were provided?</p> <p>17 A. We would go to conferences 18 from time to time, but nothing beyond 19 that.</p> <p>20 Q. What kind of conferences?</p> <p>21 A. DEA conferences. They have 22 a chemical conference, they have a 23 controlled substance conference, some 24 state conferences.</p>
Page 307	Page 309
<p>1 possibly the district directors. I don't 2 remember -- recall exactly who got that 3 role when he -- when he left.</p> <p>4 Q. Other than the on-the-job 5 initial kind of training you did working 6 with other auditors and these annual 7 meetings, were there any other kinds of 8 trainings that you attended?</p> <p>9 A. When I -- I believe before I 10 took over the director role I was sent to 11 Reid Interrogation School.</p> <p>12 Q. What's that?</p> <p>13 A. It's a school that teaches 14 you how to interrogate, conduct 15 interviews and interrogations.</p> <p>16 Q. And that was -- what time 17 period did you do that?</p> <p>18 A. I don't recall.</p> <p>19 Q. Have an estimate of a range 20 of the years you think it might have 21 occurred?</p> <p>22 A. Early 2000s.</p> <p>23 Q. Okay. How long was that 24 program?</p>	<p>1 Q. Did you go to more than one 2 of those conferences a year?</p> <p>3 A. No.</p> <p>4 Q. Did you go to one every year 5 or just some years?</p> <p>6 A. Just some years.</p> <p>7 Q. How were you invited to 8 those? Just someone said you should go, 9 or was it a regular schedule?</p> <p>10 A. No. I was assigned by my 11 senior director.</p> <p>12 Q. Okay. To go to a specific 13 conference that occurred or just they 14 would say, I want you to go to this 15 conference next month?</p> <p>16 A. He would instruct me which 17 conferences he wanted me to go to.</p> <p>18 Q. Okay. And that was Steve 19 Mays?</p> <p>20 A. Yes.</p> <p>21 Q. Any other training that you 22 took that you can think of?</p> <p>23 A. Possibly, but nothing that 24 comes to mind right now.</p>

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<p>1 Q. We talked about the 2007 2 situation where the Orlando facility got 3 its registration revoked and -- do you 4 recall that?</p> <p>5 A. Suspended.</p> <p>6 Q. Suspended, correct. Sorry. 7 Do you recall that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you are aware 10 that there was some sort of settlement 11 agreement that was entered into between 12 the company and the DEA?</p> <p>13 MR. NICHOLAS: Object to the 14 form.</p> <p>15 THE WITNESS: Yeah, I'm 16 aware of some sort of agreement we 17 had.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Okay. To your knowledge, 20 did that result in a substantial change 21 in the policies and procedures for the 22 CSRA?</p> <p>23 MR. NICHOLAS: Object to the 24 form.</p>	<p>1 correct?</p> <p>2 MR. NICHOLAS: Object to the 3 form.</p> <p>4 THE WITNESS: I think I 5 stated I assumed there was, yes.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Okay. You had a personal -- 8 a loss in the family around that time?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. Did you take a leave 11 from the company as a result of that?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Okay. For about how long?</p> <p>14 A. I think it was just over two 15 weeks.</p> <p>16 Q. And do you have a rough 17 estimate about when that was?</p> <p>18 A. It was in the 2006-2007 time 19 frame.</p> <p>20 Q. Okay. I'm going to hand you 21 another document.</p> <p>22 (Document marked for 23 identification as Exhibit 24 AmerisourceBergen-Cherveny-2.)</p>
<p>1 THE WITNESS: Changes 2 resulted as a result of the 3 action.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. But did you feel that -- you 6 know, you had already been in your role 7 for quite a few years at that time. Did 8 you feel there was like a sea change of 9 how the company was looking at diversion 10 control after that?</p> <p>11 A. A what change.</p> <p>12 Q. A sea change, like a 13 dramatic shift in how the company saw its 14 regulatory responsibilities after that 15 happened?</p> <p>16 MR. NICHOLAS: Object to the 17 form.</p> <p>18 THE WITNESS: I would say 19 changes were implemented as a 20 result of that action, yes.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. And I believe you testified 23 earlier that there was a lot of internal 24 discussion as a result of that action,</p>	<p>1 BY MR. PIFKO:</p> <p>2 Q. I'm handing you what's been 3 marked as Exhibit 2. It is a PowerPoint. 4 It doesn't have a Bates number on it 5 because it was a native printout that we 6 had. But the Bates number is 7 ABDCMDL00269291.</p> <p>8 Take a minute to review it 9 and let me know when you're done.</p> <p>10 MR. NICHOLAS: Just for the 11 record, there's no stamp on it.</p> <p>12 MR. PIFKO: Yeah, that's 13 what I was just saying. It was 14 produced natively. So it's 15 ABDCMDL00269291.</p> <p>16 MR. NICHOLAS: Can you just 17 for the record tell us whether 18 there was a confidentiality 19 designation on the document?</p> <p>20 MR. PIFKO: I assume it was 21 designated. We can go forward as 22 if it is. If it's not, we'll 23 correct the record later.</p> <p>24 THE WITNESS: Okay.</p>

1 BY MR. PIFKO: 2 Q. All right. Have you seen 3 this document before? 4 A. Not that I recall. 5 Q. Do you know what a DCM is if 6 you look at the first page here? 7 MR. NICHOLAS: I think you 8 need to -- 9 MR. PIFKO: It's 10 double-sided, I think. 11 MR. NICHOLAS: Where are 12 you? On the upper page? 13 MR. PIFKO: Yeah, the 14 very -- very first page. Yeah, 15 right there. 16 THE WITNESS: VP/DCM 17 meeting? Yes. 18 BY MR. PIFKO: 19 Q. What is a DCM? 20 A. That's an acronym for 21 distribution center manager. 22 Q. Okay. Those are people that 23 you would have interacted with when you 24 were conducting the audit?	Page 314 1 Do you see that? 2 A. Yes. 3 Q. Do you have an understanding 4 about what that is? 5 A. I don't remember what DEA's 6 initiative was with regard to that. That 7 was a long time ago. 8 Q. Okay. You don't recall ever 9 being asked to do anything as a result of 10 the initiative? 11 A. No. 12 Q. You don't recall ever being 13 told to do anything specific with respect 14 to concerns about internet pharmacies? 15 A. I don't recall anything that 16 I was instructed to do specific, no. 17 Q. Do you remember a discussion 18 about any specific concerns about 19 internet pharmacies in general? 20 A. We were aware that internet 21 pharmacies existed. 22 Q. Do you remember them being a 23 cause for concern? 24 A. Yes. That was a focus of
Page 315 1 A. Yes. 2 Q. The date here, August 28, 3 2007, do you see that? 4 A. Yes. 5 Q. Based on your memory of 6 events, is that consistent with the time 7 on or around when the company had this 8 enforcement action in Orlando? 9 A. Yes, right in that time 10 period. 11 Q. Okay. You just spent a few 12 minutes looking at the document. Would 13 you agree that this is a discussion of 14 some changes that occurred as a result of 15 the suspension of the Orlando 16 registration? 17 MR. NICHOLAS: Object to the 18 form. 19 THE WITNESS: Yes, I would. 20 BY MR. PIFKO: 21 Q. Let's go to the second page 22 here. Do you see it says, "DEA's 23 internet pharmacy initiative, suspicious 24 order monitoring"?	Page 317 1 our reviews. 2 Q. Okay. When do you remember 3 that being a focus of your reviews? 4 A. That general time period. 5 Q. In 2007? 6 A. Yes. 7 Q. And why did they become a 8 focus of your reviews at that time? 9 A. It was a lot of information 10 in the media about internet pharmacies. 11 We knew that it was a problem within the 12 country. We knew DEA had an initiative 13 to try to -- to try to address it. 14 Q. Diversion was occurring more 15 at these pharmacies; is that correct? 16 MR. NICHOLAS: Objection. 17 Object to the form. 18 THE WITNESS: According -- I 19 would say according to DEA. Yes. 20 BY MR. PIFKO: 21 Q. And you said you saw media 22 reports? 23 A. Yeah. There was a lot -- 24 there was a lot of information out in the

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<p>1 media regarding internet pharmacies back 2 then.</p> <p>3 Q. What kind of information? 4 A. Just general information. 5 Q. Like discussing problems and 6 violations that were occurring at 7 internet pharmacies? Is that what you 8 mean?</p> <p>9 A. Generally a problem within 10 the industry that was resulting in -- in 11 diversion according to the DEA, yes.</p> <p>12 Q. Okay. And specifically 13 diversion of opioids?</p> <p>14 A. Controlled substances in 15 general.</p> <p>16 Q. Okay. But that includes 17 opioids?</p> <p>18 A. Yes, controlled substance 19 includes opioids.</p> <p>20 Q. You talked about you 21 understood this was a concern of 22 something that was being discussed at the 23 company, correct?</p> <p>24 A. We were aware of it, yes.</p>	<p>1 A. Okay. 2 Q. It says, "DEA summary." 3 Do you see that? 4 A. Yes. 5 Q. Okay. It's got a timeline 6 of events here. 7 Do you see that? 8 A. Yes, I do. 9 Q. Okay. Is this consistent 10 with your understanding of the events 11 that occurred in connection with the 12 registration of the Orlando facility 13 being suspended?</p> <p>14 A. Well, the fact that it's on 15 a PowerPoint that we produced, I would 16 assume this information is accurate.</p> <p>17 Q. Okay. Did anyone contact 18 you when the Orlando facility first got 19 the order to show cause?</p> <p>20 A. I don't remember who 21 contacted me.</p> <p>22 Q. At some point, someone 23 contacted you about this issue, the fact 24 that the Orlando registration had been</p>
<p>Page 319</p> <p>1 Q. Okay. What steps did the 2 company take to address those concerns? 3 A. I don't recall. It was too 4 long ago. I don't remember specific 5 steps that we took.</p> <p>6 Q. Do you remember people 7 talking about taking any steps or just 8 being concerned?</p> <p>9 A. Again, we're talking 10 11 years ago. I don't remember specific 11 steps that were taken.</p> <p>12 Q. Do you remember if anyone 13 took any effort to take any steps?</p> <p>14 A. I don't recall.</p> <p>15 MR. PIFKO: Sterling is 16 telling me that this is marked 17 highly confidential. We can act 18 accordingly with this for the 19 record.</p> <p>20 MR. NICHOLAS: Okay.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Let go to -- Page -- there 23 are page numbers on here -- 4. Tell me 24 when you're there.</p>	<p>Page 321</p> <p>1 suspended, correct? 2 A. I would say that I became 3 aware of it. 4 Q. Okay. How do you believe 5 you first became aware of it? 6 A. I have no idea. 7 Q. You were conducting audits 8 at that time, correct? 9 A. Yes. 10 Q. Did anyone tell you that 11 there should be changes in the way the 12 company conducts its audit process to 13 prevent things like this from happening? 14 A. No, not that I recall. 15 Q. Do you recall having any 16 meetings about the fact that this was 17 happening and what the company was going 18 to do? 19 A. No. Like I said, as soon as 20 it happened -- it was bad timing. My 21 father passed away. So I had to leave 22 for, you know, a period of time. It 23 might have been more than two and a half 24 weeks. I think I stated that before.</p>

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<p>1 And when I got back, a lot of these 2 changes had already been made. So I was 3 sort of out of pocket when a lot of this 4 occurred.</p> <p>5 Q. Okay. When you got back, do 6 you recall there being changes to the way 7 you were supposed to perform your job 8 functions?</p> <p>9 A. I don't recall specifics.</p> <p>10 Q. How about in general?</p> <p>11 A. I don't recall.</p> <p>12 Q. So you don't recall whether 13 there were any changes in how you had to 14 conduct your job functions after the 15 suspension occurred?</p> <p>16 A. Not specifically.</p> <p>17 Q. Or generally either, I'm 18 asking.</p> <p>19 A. I know that the diversion 20 program was changed. I know that the 21 change resulted in the compliance 22 managers reporting to the regional 23 directors. I know those two changes 24 occurred. I don't remember exactly when</p>	<p>1 Q. Yeah. 2 A. Yeah, they reported to us. 3 Q. And do you know if their job 4 performance was measured on how 5 effectively they managed a distribution 6 center's compliance? 7 A. I don't recall. 8 Q. If violations occurred at a 9 facility, would there be disciplinary 10 action taken against a compliance 11 manager?</p> <p>12 MR. NICHOLAS: Object to the 13 form.</p> <p>14 THE WITNESS: We would 15 manage the compliance managers, 16 and they would be -- they would 17 be -- their performance would be 18 reviewed as a result of how 19 successful they were with regard 20 to their audit scores. So yes, it 21 played a direct role.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. So at the end of an audit, 24 there's an audit score?</p>
<p>1 those changes occurred following the 2 suspension. But I know that those 3 were two changes that occurred.</p> <p>4 Q. And you were one of the 5 regional directors, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So the compliance managers 8 weren't reporting to you prior to that 9 time?</p> <p>10 A. That's correct.</p> <p>11 Q. They just reported up to the 12 distribution center managers? I believe 13 that's what you said.</p> <p>14 A. That's correct.</p> <p>15 Q. Do you have an understanding 16 as to why that change was made for the 17 compliance managers to report directly to 18 people like you?</p> <p>19 A. I'm not sure what factors 20 played into that change, no.</p> <p>21 Q. Then did you have the 22 ability to hire and fire them?</p> <p>23 A. What, after they began 24 reporting to us?</p>	<p>1 A. That's correct. 2 Q. Okay. So you as one of the 3 audits -- auditors, when you fill out the 4 audit report, you put a score at the end 5 of it?</p> <p>6 A. Yes.</p> <p>7 Q. What was the range of scores 8 that one could get?</p> <p>9 A. I don't recall back then. 10 But I know when I left the audit findings 11 would accumulate and a score of 25 or 12 less was a passing score. Anything above 13 that would have been considered a failing 14 score.</p> <p>15 Q. Did you ever discipline any 16 compliance managers who reported to you?</p> <p>17 MR. NICHOLAS: Object to the 18 form.</p> <p>19 THE WITNESS: You know, I 20 believe -- I can't remember 21 specifically. But I believe that 22 I -- I would put compliance 23 managers on a program if they -- 24 if they were underperforming.</p>

1 BY MR. PIFKO: 2 Q. What was the program? 3 A. It's a performance program. 4 They would -- they would be reviewed, you 5 know, for a period of time after the 6 audit occurred that resulted in the plan. 7 I don't remember specifics. It's too 8 long ago. But that's generally how we 9 would handle compliance managers that 10 consistently had high scores or failing 11 audits. 12 Q. Do you believe you ever 13 terminated anyone who was a compliance 14 manager as a result of poor performance? 15 MR. NICHOLAS: Object to the 16 form. 17 THE WITNESS: Yes. 18 BY MR. PIFKO: 19 Q. You can -- on how many 20 occasions? 21 A. I terminated our compliance 22 manager in our Bellco distribution 23 center. In our Bethlehem distribution 24 center as well.	Page 326 1 objection. 2 THE WITNESS: I can't 3 remember specifics. 4 BY MR. PIFKO: 5 Q. Do you have any 6 understanding about what the action was 7 about? 8 A. I did -- 9 MR. NICHOLAS: Same 10 objection. 11 THE WITNESS: I just don't 12 recall it right now. I didn't 13 really prepare for that. 14 BY MR. PIFKO: 15 Q. Is there something that you 16 would look at to refresh your 17 recollection? 18 MR. NICHOLAS: Same 19 objection. Object to the form. 20 THE WITNESS: Not here. 21 BY MR. PIFKO: 22 Q. Did you ever see a 23 settlement agreement between the Bellco 24 distribution center and the government?
Page 327 1 Q. When did those terminations 2 occur? 3 A. I can't recall the specific 4 dates. 5 Q. In the last five years or 6 longer ago? 7 A. Oh, it was longer ago. 8 Q. The Bellco distribution 9 center, was that -- that was under your 10 purview? 11 A. Yes, it was. 12 Q. Are you aware that they had 13 a settlement with the Attorney General? 14 MR. NICHOLAS: Object to the 15 form. 16 THE WITNESS: I knew they 17 had action that was being taken 18 against them. I can't recall the 19 specifics of that action. 20 BY MR. PIFKO: 21 Q. Do you understand that that 22 action concerned diversion control 23 issues? 24 MR. NICHOLAS: Same	Page 329 1 MR. NICHOLAS: Object to the 2 form. 3 THE WITNESS: I believe I 4 did. 5 BY MR. PIFKO: 6 Q. Would that have been 7 provided to you around the time that it 8 was executed? 9 MR. NICHOLAS: Object to the 10 form. 11 THE WITNESS: Yes, I believe 12 it would. 13 BY MR. PIFKO: 14 Q. Do you remember changing 15 anything about the operations at that 16 center as a result of the Attorney 17 General's action there? 18 MR. NICHOLAS: Same 19 objection. 20 THE WITNESS: I have a 21 general recollection that some 22 changes occurred as a result of 23 that action. 24 BY MR. PIFKO:

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<p>1 Q. But you don't know what 2 changes were made? 3 A. There were a number of 4 changes. I can't remember specifics. It 5 was too long ago. 6 Q. Did it affect diversion 7 control activities? 8 MR. NICHOLAS: Same 9 objection. 10 THE WITNESS: Possibly. I 11 don't recall. 12 BY MR. PIFKO: 13 Q. Who was the manager of that 14 facility? 15 A. It transitioned over several 16 years to multiple people. I believe it 17 may have been Mike Lawlor at that time. 18 But I can't be certain. 19 Q. Were there -- are you aware 20 of whether there were any personnel 21 changes as a result of the Attorney 22 General's action concerning that 23 facility? 24 MR. NICHOLAS: Object to the</p>	<p>1 at that time? 2 A. Karen Girillo was my 3 compliance manager at that facility. 4 Q. Is there anything different 5 about that facility compared to other 6 distribution centers? 7 MR. NICHOLAS: Object to the 8 form. 9 THE WITNESS: Yeah. Bellco 10 had two divisions. They had one 11 full line wholesale operation that 12 serviced a Tri-State area and they 13 also had a division called Bellco 14 Generics that shipped products 15 nationwide. 16 BY MR. PIFKO: 17 Q. What -- how did the generics 18 business different from other types of 19 businesses that occurred at distribution 20 centers, AmerisourceBergen's distribution 21 centers? 22 MR. NICHOLAS: Objection. 23 Form and scope. Go ahead. 24 THE WITNESS: Bell Generics</p>
<p>1 form. 2 THE WITNESS: Don't remember 3 specifics with regards to 4 personnel changes resulting from 5 that. 6 BY MR. PIFKO: 7 Q. Did you personally interact 8 with anyone from the government in 9 connection with that action? 10 MR. NICHOLAS: Objection. 11 BY MR. PIFKO: 12 Q. The AG action concerning the 13 Belco facility? 14 MR. NICHOLAS: Object to the 15 form. Scope. 16 THE WITNESS: I worked with 17 the distribution center to -- to 18 make corrections, but again it was 19 a long time ago. I don't remember 20 specifics. 21 BY MR. PIFKO: 22 Q. Is there a name of anyone 23 besides the manager of that distribution 24 center that you remember interacting with</p>	<p>1 specialized in low cost products, 2 limited products that were more 3 competitive than other 4 distribution centers and other 5 wholesalers. So they -- they had 6 a market across the United States. 7 They had customers in all 50 8 states. 9 BY MR. PIFKO: 10 Q. And then the -- the 11 Tri-State regional distribution, was that 12 more similar to the types of business 13 that the other distribution centers did? 14 MR. NICHOLAS: Same 15 objection. 16 THE WITNESS: Yes, that's 17 correct. 18 BY MR. PIFKO: 19 Q. Let's go back to Exhibit 2, 20 Slide 5. Do you see that? 21 A. Yes. 22 Q. Okay. It talks about 23 enhancements for the diversion control 24 program. Do you see that?</p>

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<p>1 A. Order monitoring program?</p> <p>2 Q. Well, where it says,</p> <p>3 "48-hour reporting to DEA, know your</p> <p>4 customer"?</p> <p>5 A. Yeah.</p> <p>6 Q. All those things, do you see</p> <p>7 that?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay. Are you familiar with</p> <p>10 what those enhancements were?</p> <p>11 A. Not in a detailed way, no.</p> <p>12 Q. Do you know what "know your</p> <p>13 customer" means?</p> <p>14 A. Yes. I understand the DEA's</p> <p>15 "know your customer" component.</p> <p>16 Q. What is that, what is your</p> <p>17 understanding of what that means?</p> <p>18 A. That we should have a good</p> <p>19 understanding of what their business</p> <p>20 model is so we have a better</p> <p>21 understanding of the orders that they are</p> <p>22 placing with -- with our distribution</p> <p>23 centers.</p> <p>24 Q. And when you say "they," you</p>	<p>1 Q. Okay. So did you -- did you</p> <p>2 have any involvement with conducting this</p> <p>3 "know your customer" due diligence that's</p> <p>4 discussed here that was implemented in</p> <p>5 2007?</p> <p>6 A. No, I don't believe so.</p> <p>7 That was handled by a different team.</p> <p>8 Q. Do you know the team that</p> <p>9 handled that?</p> <p>10 A. That was the diversion</p> <p>11 control team under corporate.</p> <p>12 Q. Who -- who was on that team?</p> <p>13 A. I don't recall the specific</p> <p>14 individuals. I know it was headed by Ed</p> <p>15 Hazewski.</p> <p>16 Q. Anyone else that you can</p> <p>17 think of?</p> <p>18 A. Those investigators</p> <p>19 transitioned in and out. I don't recall.</p> <p>20 Scott Kirsch was one investigator.</p> <p>21 Q. Anyone else?</p> <p>22 A. I can't remember.</p> <p>23 Q. Order monitoring program.</p> <p>24 Next thing down here. It's got establish</p>
<p>1 mean your customer?</p> <p>2 A. Correct.</p> <p>3 Q. Did you -- have you -- other</p> <p>4 than the investigations that you</p> <p>5 conducted between 2005 and 2007, did you</p> <p>6 ever conduct any due diligence</p> <p>7 investigations concerning customers?</p> <p>8 A. When you say --</p> <p>9 MR. NICHOLAS: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: When you say</p> <p>12 due diligence investigations, I</p> <p>13 was -- I was conducting</p> <p>14 investigations of a possible</p> <p>15 excessive purchase report. So if</p> <p>16 you would classify that as a due</p> <p>17 diligence, then I would say yes.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. This is after 2007 is what</p> <p>20 I'm asking.</p> <p>21 A. Post 2007?</p> <p>22 Q. Yeah.</p> <p>23 A. No. My responsibilities</p> <p>24 ceased after 2007 regarding that.</p>	<p>1 thresholds. Do you know what a threshold</p> <p>2 is?</p> <p>3 A. Yes, I have a basic</p> <p>4 understanding of what a threshold is.</p> <p>5 Q. Okay. What's your</p> <p>6 understanding?</p> <p>7 A. I don't know exactly what</p> <p>8 went into those thresholds. I know it's</p> <p>9 a level at which, you know, purchase</p> <p>10 activity would draw a flag and hold the</p> <p>11 order until it could be investigated.</p> <p>12 Q. And then it says, "Review at</p> <p>13 distribution centers." Is that what it</p> <p>14 says?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. What does that mean,</p> <p>17 do you know what that means?</p> <p>18 A. I believe that's when the</p> <p>19 RPICs were implemented at the DC level.</p> <p>20 Q. And before that what was the</p> <p>21 process?</p> <p>22 A. Prior to 2007 orders weren't</p> <p>23 held when investigation -- or when a</p> <p>24 suspicious order was flagged. We would</p>

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<p>1 conduct those investigations after the 2 fact. 3 Q. And so was there a personnel 4 change? I believe we -- we talked about 5 that under the computer ordering system, 6 there are other reasons for an order to 7 be flagged like if there was a payment 8 credit issue -- I forget, there was some 9 other reason that you said for an order 10 to be held. So there was already someone 11 whose job it was to be doing that prior 12 to 2007; is that correct? 13 MR. NICHOLAS: Object to the 14 form. Go ahead. 15 THE WITNESS: Yeah. There 16 were -- there were other hold 17 codes that did not include the 18 order monitoring program hold 19 code. So there was a number of 20 hold codes that would hold an 21 order, like licensing, credit and 22 that kind of thing. 23 BY MR. PIFKO: 24 Q. Okay. And so there was</p>	<p>1 well. 2 Q. Who else had that 3 responsibility? 4 A. A number of -- a number of 5 associates held that responsibility 6 including the warehouse managers, 7 compliance clerks. 8 Q. The order -- we talked about 9 the filling of orders earlier. Do you 10 recall that? It comes in from the 11 computer. They put it in the totes, 12 things like that? 13 A. Yes. 14 Q. That occurs at night, 15 correct? 16 A. Depending on the 17 distribution center. Some of those 18 happen during the day as well. 19 Q. Okay. Does it primarily 20 occur at night? 21 A. Yes. 22 Q. The investigation thing here 23 on Page 5. Do you see that? 24 A. Yes.</p>
<p>1 already someone's job who it was to deal 2 with those holds, correct? 3 A. Yes. I believe so. 4 Q. Okay. Were -- were those 5 same people then added this 6 responsibility of reviewing the order 7 monitoring program holds? 8 A. Back in that time frame, I 9 don't recall who was handling those kinds 10 of holds at the distribution center 11 level. 12 Q. You don't know who the RPICs 13 were when this program was initiated? 14 A. No. 15 Q. Okay. I believe you 16 testified earlier that the -- the data 17 manage -- data management people, I 18 forgot what the term you used? 19 A. It was just one of -- they 20 were usually an RPIC. 21 Q. Okay. 22 A. But there were other people 23 at the division -- at the -- at the DC 24 level who had that responsibility as</p>	<p>1 Q. Do you know what that's 2 referring to? 3 A. It states, "Report to DEA." 4 I can't state specifically what they are 5 referring to in that bullet point. 6 Q. The next section, on Page 6, 7 it says, "Audits, investigations, and 8 regulatory activity." 9 That's -- that was -- 10 includes activities in your purview as 11 the regional director, correct? 12 A. Yes. 13 Q. Go to the next page. It's 14 got a summary of DEA audits. 15 Do you see that? 16 A. Yes. 17 Q. Are you familiar with these 18 statistics? 19 A. Not for this particular 20 PowerPoint. But I would take this 21 information as being accurate. 22 Q. These are -- concern audits 23 and inspections at AmerisourceBergen's 24 facilities?</p>

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	<p>1 A. Yes.</p> <p>2 Q. It mentions this MOU here.</p> <p>3 Do you see that, in 2006?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know what that was?</p> <p>6 A. No, I don't recall.</p> <p>7 Q. It says here, "Not good."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. You agree with -- that an</p> <p>11 MOU is not -- not good?</p> <p>12 A. From a regulatory --</p> <p>13 MR. NICHOLAS: Object to --</p> <p>14 THE WITNESS: Sorry.</p> <p>15 MR. NICHOLAS: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: Yeah, from a</p> <p>18 regulatory standpoint we don't</p> <p>19 like MOUs.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Why is that?</p> <p>22 A. Because we were doing</p> <p>23 something wrong, according to DEA.</p> <p>24 Q. When there's an MOU, do you</p>	<p>1 That's for the Orlando facility?</p> <p>2 A. Yes.</p> <p>3 Q. And then it says, "Six</p> <p>4 distribution center inspections for order</p> <p>5 monitoring program compliance."</p> <p>6 Is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what those were?</p> <p>9 A. I believe they were the six</p> <p>10 distribution centers that the DEA audited</p> <p>11 as a precursor to get our registration</p> <p>12 back in active status for the Orlando</p> <p>13 distribution center.</p> <p>14 Q. Okay. So the Orlando</p> <p>15 distribution center had issues that led</p> <p>16 to the suspension, and then the DEA went</p> <p>17 to inspect other facilities as a result</p> <p>18 of that?</p> <p>19 MR. NICHOLAS: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: That's my</p> <p>22 understanding of the chronology,</p> <p>23 yes.</p> <p>24 BY MR. PIFKO:</p>
	<p>1 try to change what's going on at the</p> <p>2 facility so you don't -- so it doesn't</p> <p>3 happen again?</p> <p>4 A. Yes.</p> <p>5 Q. It's a serious event?</p> <p>6 MR. NICHOLAS: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: Yes, it is.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. How about a letter of</p> <p>11 admonition? Do you see that? Just above</p> <p>12 that?</p> <p>13 A. Yes. Yes, I do.</p> <p>14 Q. Is that a significant event?</p> <p>15 A. Yes.</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Do you recall what that's</p> <p>21 referring to in 2006?</p> <p>22 A. No, I don't.</p> <p>23 Q. It talks about 2007</p> <p>24 activities, the registration suspension.</p>	<p>1 Q. How did you come to that</p> <p>2 understanding?</p> <p>3 MR. NICHOLAS: Same</p> <p>4 objection.</p> <p>5 THE WITNESS: Based on this</p> <p>6 report.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. Did you talk to anyone at</p> <p>9 the company about that?</p> <p>10 A. I don't recall back in that</p> <p>11 time period.</p> <p>12 Q. Okay. But looking at that,</p> <p>13 you're able to tell the chronology?</p> <p>14 MR. NICHOLAS: Same</p> <p>15 objection.</p> <p>16 THE WITNESS: I very vaguely</p> <p>17 recall, you know, what transpired</p> <p>18 in the 2007 time frame. I</p> <p>19 remember there was audits from the</p> <p>20 DEA in order to get the</p> <p>21 registration back in active</p> <p>22 status.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Would you have attended any</p>

<p style="text-align: right;">Page 346</p> <p>1 of those audits if the DEA conducted an 2 audit?</p> <p>3 MR. NICHOLAS: Object to the 4 form.</p> <p>5 THE WITNESS: I don't recall 6 if I attended any of those. I may 7 have attended one. I don't 8 recall.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. As an auditor, was that 11 something that you would do from time to 12 time if the DEA wanted to audit the 13 facility, would they -- would you 14 accompany them on such an audit?</p> <p>15 MR. NICHOLAS: Object to the 16 form.</p> <p>17 THE WITNESS: Not routinely. 18 Normally the DEA would conduct 19 unannounced audits, and the audit 20 was initiated at one of our 21 distribution centers. We would 22 work with the compliance manager. 23 But we wouldn't travel there to 24 conduct the audit with the DEA.</p>	<p style="text-align: right;">Page 348</p> <p>1 correct. Not routinely.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Going to Slide 8, it's got a 4 list of different audits of different 5 facilities. Are these all facilities 6 that the company had around 2007?</p> <p>7 A. Yes, that appears to be the 8 information on this page.</p> <p>9 Q. It's consistent with what 10 your understanding is about the 11 facilities based on your experience with 12 the company?</p> <p>13 A. I'm not sure I understand 14 your question.</p> <p>15 Q. I'm just -- well, you said 16 this is what's on the page. But I'm 17 asking you, you worked there. Is this -- 18 these names of these places, is this 19 consistent with facilities that the 20 company had at the time?</p> <p>21 A. Yes, I would agree with 22 that.</p> <p>23 Q. Okay. And these would be 24 months and years when the facilities had</p>
<p style="text-align: right;">Page 347</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Okay. So DEA arrives at a 3 facility on such an occasion. The 4 compliance manager might call you to ask 5 for advice?</p> <p>6 MR. NICHOLAS: Object to the 7 form.</p> <p>8 THE WITNESS: Per internal 9 policy, if the DEA walks in to 10 initiate an audit, they're 11 required to notify their regional 12 director immediately.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. The compliance manager is 15 required to notify you? Is that what 16 you're saying?</p> <p>17 A. Yes, correct.</p> <p>18 Q. And so you would interact 19 with them on the phone and maybe by 20 e-mail, but you wouldn't show up in 21 person?</p> <p>22 MR. NICHOLAS: Object to the 23 form.</p> <p>24 THE WITNESS: That's</p>	<p style="text-align: right;">Page 349</p> <p>1 audits?</p> <p>2 A. Yeah. This would be the 3 most recent DEA audit for these subject 4 distribution centers.</p> <p>5 Q. Okay. Some of these have a 6 letter G after it. Do you know what that 7 refers to?</p> <p>8 MR. NICHOLAS: Object to the 9 form, and no foundation.</p> <p>10 THE WITNESS: That's a 11 designation for Greenfield 12 distribution centers.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. What?</p> <p>15 A. I believe the G is a 16 designation for Greenfield distribution 17 centers.</p> <p>18 Q. Okay. What does that mean?</p> <p>19 A. Those facilities were larger 20 than a standard facility. They had a 21 common footprint. They had a common 22 blueprint. And we mimicked that 23 blueprint and footprint in multiple 24 distribution centers throughout the</p>

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<p>1 company. So it's just a -- designates a 2 larger distribution center.</p> <p>3 Q. Okay. They're like clones 4 of each other, essentially?</p> <p>5 MR. NICHOLAS: Object to the 6 form.</p> <p>7 THE WITNESS: Not exactly. 8 But generally they have the common 9 footprint and blueprint, yeah.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. And these were the largest 12 facilities?</p> <p>13 MR. NICHOLAS: Same 14 objection.</p> <p>15 THE WITNESS: Within the ABC 16 network, yes.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. You visited all these 19 facilities over your tenure as an 20 auditor?</p> <p>21 A. Yes, I visited all of them.</p> <p>22 Q. In the copy that was 23 produced in its actual -- as we call it, 24 native format, you can see up on the</p>	<p>1 A. Yes. This looks -- this 2 looks routine for those years.</p> <p>3 Q. Let's go to Slide 11. It 4 talks about audit results.</p> <p>5 Do you see this?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have an understanding 8 about what's being communicated here?</p> <p>9 MR. NICHOLAS: Objection.</p> <p>10 Form. Foundation.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Can you tell me what's being 14 communicated here?</p> <p>15 A. It's showing CSRA audits 16 that were conducted in the years 2005, 17 2006, 2007, and 2008 with the high level 18 results of those audits.</p> <p>19 Q. What does that mean? The 20 results there, how do I understand that? 21 Level 1, Level 2, Level 3, and it's got 22 some percentages.</p> <p>23 A. As I indicated before, I 24 don't remember exactly the audit score</p>
<p>1 screen it's in color. The facilities on 2 the right are in red.</p> <p>3 Do you have an understanding 4 about why those are in red? Is there 5 something different about those 6 facilities as it concerns audit history 7 versus the other facilities?</p> <p>8 MR. NICHOLAS: Objection.</p> <p>9 Form. Foundation.</p> <p>10 THE WITNESS: No, I don't 11 recall what that designates.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Go to Slide 10, please.</p> <p>14 State agencies would audit your 15 facilities from time to time as well; is 16 that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. Seeing these 19 statistics here, Board of Pharmacy, 20 Department of Health inspections from 21 2004 to 2007, is that consistent with 22 your understanding of the number of 23 inspections that would have occurred by 24 state agencies?</p>	<p>1 requirements to be a passing audit in 2 2005, 2006, 2007, during those years.</p> <p>3 But I believe 25 was the audit score that 4 would be considered a passing score. So 5 that would be considered a Level 1 audit.</p> <p>6 There was a subsequent score 7 of Level 2 that was a range above 25, and 8 then that was a Level 2. And if it went 9 above that level two and it became a 10 Level 3 audit. So it was just degrees 11 above a passing audit that was, you know, 12 different degrees of failing the audit.</p> <p>13 Q. Okay.</p> <p>14 A. So that's basically what 15 you're seeing here. 25 had a passing 16 audit. One had a Level 2 audit, which 17 was a low -- low level fail, and then one 18 had a Level 3 audit which was a higher 19 level fail.</p> <p>20 Q. And it looks like, if I go 21 to 2006, you can have a Level 4 failure, 22 which is even higher?</p> <p>23 A. Yes.</p> <p>24 Q. So this is reflecting the</p>

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<p>1 number of facilities and how they fell 2 into the passing rates? 3 A. Yes. 4 Q. Go to Slide 13. Are you 5 there? 6 A. Yes. 7 Q. It talks about 8 investigations. Are you familiar what 9 this slide is reflecting? 10 MR. NICHOLAS: Objection. 11 Form. Foundation. 12 THE WITNESS: It indicates 13 the number of investigations that 14 were conducted in each year, it 15 looks like. 16 BY MR. PIFKO: 17 Q. Okay. It talks about 18 projecting a 1,500 percent increase from 19 2004 to 2007. 20 Do you see that? 21 A. Yes. 22 Q. Do you have an understanding 23 about why there was a projection that it 24 would increase to that degree?</p>	<p>1 A. Yes. 2 Q. Is it your understanding 3 there's a financial impact when there's 4 regulatory action taken against a 5 AmerisourceBergen facility? 6 MR. NICHOLAS: Object to the 7 form and to foundation. 8 THE WITNESS: Not always. 9 BY MR. PIFKO: 10 Q. Do you agree with the -- 11 MR. PIFKO: Can people on 12 the phone mute their phone? 13 BY MR. PIFKO: 14 Q. Do you have an understanding 15 about what this is referring to here when 16 it talks about the financial impact? 17 MR. NICHOLAS: Objection to 18 the form and to the foundation. 19 THE WITNESS: Well, if it 20 relates to the action in Orlando, 21 we had to take a lot of steps to 22 service our customers from 23 distribution centers other than 24 Orlando DC. So that obviously</p>
<p>1 MR. NICHOLAS: Same 2 objection. Form. Foundation. 3 THE WITNESS: No, I don't 4 have a -- I don't have a detailed 5 recollection of what these 6 investigations entailed or what 7 type of investigations they were. 8 So I -- I don't recall. 9 BY MR. PIFKO: 10 Q. Do you have an understanding 11 about why they were projecting a 12 substantial increase in investigations in 13 2007? 14 MR. NICHOLAS: Same 15 objection. Form. Foundation. 16 THE WITNESS: I don't 17 recall. 18 BY MR. PIFKO: 19 Q. Go to Slide 16. It talks 20 about the impact to AmerisourceBergen 21 Corporation. Do you see that? 22 A. Yes. 23 Q. One of them is financial 24 impact. Do you see that?</p>	<p>1 would have a financial impact. 2 Beyond that, I couldn't really 3 speak to it. 4 BY MR. PIFKO: 5 Q. When you say you had to take 6 steps to serve your customers from other 7 distribution centers, what do you mean? 8 A. Well, those accounts were 9 set up under the Orlando distribution 10 center. And if we have to change the 11 system to ship these products from other 12 distribution centers, then that took a 13 lot of work. 14 Q. So when that distribution 15 center was shut down, you serviced its 16 accounts through other distribution 17 centers; is that correct? 18 A. Yes, that's correct. 19 Q. Do you know if any accounts 20 were terminated as a result of the 21 suspension and the activities that 22 occurred at that facility? 23 A. I don't know. That would 24 not have been in my area at that time.</p>

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<p>1 Q. Have you ever heard of 2 something called the do-not-ship list? 3 A. Yes, I'm familiar with that. 4 Q. What does that mean if 5 somebody is on the do-not-ship list? 6 A. It's a list that indicates 7 customers that the company has terminated 8 so we just have kept a record of it over 9 years.</p> <p>10 Q. Are you supposed to be 11 shipping controlled substances to a 12 facility or a customer who is on the 13 do-not-ship list?</p> <p>14 A. Well, the list indicates a 15 documented history of customers that were 16 blocked. So it didn't indicate that we 17 couldn't reactivate them at a later date 18 based on current information that we had 19 on them. So just to clarify that answer.</p> <p>20 Q. Okay. But --</p> <p>21 A. While they were on there we 22 would not ship to that customer.</p> <p>23 Q. Okay. But if they are on 24 the do-not-ship list and they haven't</p>	<p>1 MR. PIFKO: Yeah, but -- 2 just this document will be quick. 3 I guess we don't -- we can take a 4 quick break.</p> <p>5 MR. NICHOLAS: How much 6 longer do you think you have, 7 Mark?</p> <p>8 MR. PIFKO: I'll give you a 9 better estimate when we come back.</p> <p>10 THE VIDEOGRAPHER: Going off 11 the record at 4:09 p.m.</p> <p>12 (Short break.)</p> <p>13 THE VIDEOGRAPHER: Back on 14 record. The time is 4:20 p.m.</p> <p>15 (Document marked for 16 identification as Exhibit 17 AmerisourceBergen-Cherveny-3.)</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. I'm handing you what's been 20 marked as Exhibit 3.</p> <p>21 For the record it's a series 22 of e-mails Bates-labeled ABDCMDL00162810 23 through 13.</p> <p>24 MR. PIFKO: Let the record</p>
<p>1 been reactivated, you shouldn't be 2 shipping controlled substances to them; 3 is that correct?</p> <p>4 A. Yeah, unless they were on 5 there in error, I would agree with that.</p> <p>6 Q. Okay. It would violate the 7 company's policy to do so, correct?</p> <p>8 MR. NICHOLAS: Object to the 9 form. Go ahead.</p> <p>10 THE WITNESS: I'm not sure 11 how the -- the do-not-ship list 12 was documented in policy. But I 13 would agree generally that, yeah, 14 unless they are on there in error, 15 they shouldn't be receiving 16 controlled substances.</p> <p>17 MR. NICHOLAS: Before you 18 get to the next document, if 19 you're going to be a while, can we 20 get a break?</p> <p>21 MR. PIFKO: It'll be quick.</p> <p>22 MR. NICHOLAS: Is this the 23 last -- are you close to the end 24 of the examination?</p>	<p>1 reflect the witness is reviewing 2 the document.</p> <p>3 MR. NICHOLAS: Am I correct 4 that the e-mails go from back to 5 front, back being the earliest, 6 front being the latest?</p> <p>7 MR. PIFKO: Yeah, the last 8 page is the earliest e-mail.</p> <p>9 MR. NICHOLAS: Yeah, okay.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. This e-mail is fairly 12 recent. It's dated February 2008 -- '18, 13 sorry.</p> <p>14 A. Okay.</p> <p>15 Q. You are included on some of 16 these e-mails, that someone included you 17 in the thread at some point.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Do you recall this 21 discussion?</p> <p>22 A. Yes.</p> <p>23 Q. It says here that -- I'm 24 looking at the page Bates-labeled</p>

<p style="text-align: right;">Page 362</p> <p>1 ABDCMDL162812. Tell me when you're on 2 that page. 3 A. 1628. 4 Q. The second-to-last page. 5 A. 162812? 6 Q. Yeah. 7 A. Yeah, okay. 8 Q. Okay. Are you there? 9 A. Yeah. 10 Q. It says at the bottom, 11 talking about some of these accounts, 12 they're first mentioned on the earlier 13 page. It says, "The license records are 14 in locked status, which means these 15 customers have purchased controlled 16 substances from us. I think these 17 accounts, with the except of JSK 18 Pharmacy, Inc., should have exclusions 19 preventing them from purchasing 20 controlled substances. These accounts 21 were placed on the DNS list" -- which I 22 believe is do-not-ship list -- "since 23 2011 and 2013. It does not appear that 24 any of them have been reinstated."</p>	<p style="text-align: right;">Page 364</p> <p>1 purchase controlled substances if they 2 were on the do-not-ship list? 3 MR. NICHOLAS: Objection to 4 form and scope. 5 THE WITNESS: It looks like 6 they were on there in error. They 7 really weren't intended to be on 8 the do not ship list. And they 9 have since been removed from the 10 do not ship list. That's based on 11 the e-mails that you see, you 12 know, from the analysis, and once 13 we looked into it.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. If someone is on the do not 16 ship list, though, the system should 17 prevent them from purchasing controlled 18 substances, agree?</p> <p>19 MR. NICHOLAS: Object to the 20 form.</p> <p>21 THE WITNESS: Well, as I 22 stated earlier, unless they're on 23 there in error. Just because 24 somebody puts them on the do not</p>
<p style="text-align: right;">Page 363</p> <p>1 Do you see that? 2 A. Yes. 3 Q. Do you agree with that 4 statement? 5 MR. NICHOLAS: Object to the 6 form. 7 THE WITNESS: Yeah. 8 BY MR. PIFKO: 9 Q. You go to the earlier e-mail 10 on Page 162813, it says, "There may be a 11 possible issue with the above listed 12 customers. They all appear on the DNS 13 list, but all their licenses are all 14 active, and there are no exclusions set 15 up that would prohibit them from 16 purchasing controlled substances." 17 Do you see that? 18 A. Yes. 19 Q. Do you recall discussing 20 this issue? 21 A. Vaguely. It was a few 22 months ago, but yeah, I recall. 23 Q. Do you have an understanding 24 about why these customers were able to</p>	<p style="text-align: right;">Page 365</p> <p>1 ship list, it doesn't really mean 2 that they followed through and 3 blocked them. In this case, they 4 were determined to be on there in 5 error. And there wasn't a reason 6 for them to be blocked. So it was 7 just a clerical error from what I 8 see here.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So putting someone on the do 11 not ship list alone doesn't prevent them 12 from ordering controlled substances?</p> <p>13 MR. NICHOLAS: Object to the 14 form.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Someone has to take another 18 step of entering something into the 19 computer to block the customer?</p> <p>20 A. We coordinate to have 21 another department do that, yes.</p> <p>22 Q. Are you aware of other 23 instances where customers on the 24 do-not-ship list have been ordering</p>

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<p>1 controlled substances?</p> <p>2 A. It's not a common</p> <p>3 occurrence, no. This is a discrepancy</p> <p>4 that we identified after we looked into</p> <p>5 it.</p> <p>6 Q. Do you know if it's happened</p> <p>7 before?</p> <p>8 A. Not that I recall.</p> <p>9 Q. But it's possible it may</p> <p>10 have?</p> <p>11 MR. NICHOLAS: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: It may have,</p> <p>14 but I don't think that it's</p> <p>15 happened during the time that I've</p> <p>16 been over the diversion program.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Since 2015?</p> <p>19 A. Correct.</p> <p>20 Q. When did you first implement</p> <p>21 the do-not-ship list, do you know?</p> <p>22 A. That was implemented prior</p> <p>23 to me coming on board.</p> <p>24 Q. Okay.</p>	<p>1 the regulatory section of the DEA that</p> <p>2 oversees suspicious order investigations</p> <p>3 and DEA audits. Do you see that?</p> <p>4 A. Yeah, I don't know. I</p> <p>5 didn't know who Barbara was based on</p> <p>6 this. But are you stipulating that</p> <p>7 it's --</p> <p>8 Q. Well, it says in the middle</p> <p>9 here: "All, we have a tentative</p> <p>10 agreement from the chief of the</p> <p>11 regulatory section that oversees..."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. She is someone at the</p> <p>15 DEA as far as you know?</p> <p>16 A. Yeah, I don't know who</p> <p>17 Barbara Bookholdt is, yeah.</p> <p>18 Q. Do you recall discussing a</p> <p>19 meeting with the DEA to go over the</p> <p>20 issues that are reflected on 145774?</p> <p>21 A. No, I don't remember this --</p> <p>22 this meeting being conducted.</p> <p>23 Q. Do you remember these --</p> <p>24 these e-mails?</p>
Page 367	Page 369
<p>1 A. As a diversion director.</p> <p>2 Q. So you don't know?</p> <p>3 A. I don't know.</p> <p>4 Q. Is that something that was</p> <p>5 in place in 2007?</p> <p>6 A. I don't know.</p> <p>7 Q. Handing you what's been</p> <p>8 marked as Exhibit 6.</p> <p>9 (Document marked for</p> <p>10 identification as Exhibit</p> <p>11 AmerisourceBergen-Cherveny-6.)</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. For the record it's a</p> <p>14 two-page document Bates labeled</p> <p>15 ABDCMDL00145773 and 774.</p> <p>16 Your name is at the top</p> <p>17 sending an e-mail to Steve Mays dated</p> <p>18 February 26, 2013. Subject, proposed</p> <p>19 meeting. Barbara Bookholdt.</p> <p>20 Let me know when you're</p> <p>21 ready to discuss.</p> <p>22 A. Okay.</p> <p>23 Q. So this is talking about</p> <p>24 setting up a meeting with the chief of</p>	<p>1 A. No.</p> <p>2 Q. It says here, you write at</p> <p>3 the top, you say: I'm not sure how</p> <p>4 specific we want to get with the CSOS</p> <p>5 issues given our current setup."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what that's</p> <p>9 referring to?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you remember having</p> <p>12 concerns?</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: I don't think</p> <p>16 it was a concern. I think it was</p> <p>17 regarding CSOS. The DEA largely</p> <p>18 doesn't understand their own CSOS</p> <p>19 program. And then we have to</p> <p>20 explain it to them in more times</p> <p>21 than not. So I think that's</p> <p>22 probably where I was going here.</p> <p>23 But I don't recall this e-mail.</p> <p>24 BY MR. PIFKO:</p>

<p style="text-align: right;">Page 370</p> <p>1 Q. So is there something unique 2 about your -- the way your system is set 3 up compared to other members of the 4 industry as far as you know?</p> <p>5 MR. NICHOLAS: Object to the 6 form. Lack of foundation.</p> <p>7 THE WITNESS: Not that I 8 recall, no.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. It talks about on 145774 the 11 settlement agreement expiring. Do you 12 see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you have an understanding 15 about that?</p> <p>16 A. Yeah. That's -- I think 17 that's an error. I know it expired at 18 one point. But it was renewed subsequent 19 to that. So I don't think that's -- 20 that's an accurate statement. But I do 21 see where they state that in the e-mail.</p> <p>22 Q. What's your basis for 23 understanding that there was a renewal?</p> <p>24 A. General, my general</p>	<p style="text-align: right;">Page 372</p> <p>1 involvement with -- did you take on 2 serving on the regulatory affairs 3 committee at the HDA when you took on 4 that role?</p> <p>5 A. No, I did not.</p> <p>6 Q. Do you now have any 7 involvement with the HDA?</p> <p>8 A. No, none.</p> <p>9 Q. Okay. The -- the second 10 page, I don't know if you understand when 11 a document is produced in litigation, if 12 you imagine like in your -- on your 13 desktop, if you click on a document it 14 carries with it that it was created by 15 someone or you know that it's connected 16 to someone's computer. So the data that 17 accompanied this file shows that it came 18 from your files, the second page here. 19 And so my question to you 20 is, do you remember looking at or 21 drafting redlines of this bill that was 22 being discussed here?</p> <p>23 A. No, I don't.</p> <p>24 Q. Okay. Do you know what this</p>
<p style="text-align: right;">Page 371</p> <p>1 understanding of where we currently are 2 with the agreement with the DEA resulting 3 from the 2007 action.</p> <p>4 Q. Do you recall discussing 5 that with anyone specifically?</p> <p>6 A. No.</p> <p>7 MR. NICHOLAS: Object to the 8 form.</p> <p>9 (Document marked for 10 identification as Exhibit 11 AmerisourceBergen-Cherveny-4.)</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. I'm handing you what's 14 marked as Exhibit 4.</p> <p>15 For the record, this is a 16 two-page document, Bates labeled 17 ABDCMDL001731146 and 147.</p> <p>18 A. Okay.</p> <p>19 Q. Okay. You were in your 20 diversion control function at this point, 21 correct?</p> <p>22 A. Yeah. I was just -- it was 23 in my first six months, yeah.</p> <p>24 Q. Okay. Did you have any</p>	<p style="text-align: right;">Page 373</p> <p>1 discussion is about?</p> <p>2 A. It looks like HDMA having a 3 discussion with regards to regulation.</p> <p>4 Q. Well, they are talking about 5 a Senate Bill 483, DEA enforcement bill, 6 do you see that?</p> <p>7 A. Yes. Yeah.</p> <p>8 Q. Do you have any knowledge 9 about what that is?</p> <p>10 MR. NICHOLAS: Objection. 11 Lack of foundation. And object to 12 the form.</p> <p>13 THE WITNESS: No, I had 14 nothing to do with any review of 15 this document.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Did you have any 18 understanding about why your name would 19 be linked to the -- the attached language 20 on this document?</p> <p>21 MR. NICHOLAS: Objection. 22 Lack of foundation, and object to 23 the form of the document and -- go 24 ahead.</p>

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<p>1 THE WITNESS: No. It might 2 have been on the distribution 3 list. It might have come to me.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Have you heard of the 6 Ensuring Patient Access to Care Act?</p> <p>7 A. No.</p> <p>8 Q. Are you aware that through 9 the HDA, certain members of the 10 pharmaceutical industry were trying to 11 change laws and regulations that the DEA 12 enforced?</p> <p>13 MR. NICHOLAS: Objection to 14 the lack of foundation as well as 15 to the form.</p> <p>16 THE WITNESS: No, I don't 17 recall this.</p> <p>18 (Document marked for 19 identification as Exhibit 20 AmerisourceBergen-Cherveny-5.)</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. I'm handing you what's been 23 marked as Exhibit 5.</p> <p>24 For the record Exhibit 5 is</p>	<p>1 specific conference call.</p> <p>2 Q. Do you know what the Masters 3 decision is? Do you see that reflected 4 here?</p> <p>5 A. I have a basic understanding 6 of the Masters decision.</p> <p>7 Q. What's your understanding of 8 it?</p> <p>9 A. Masters was a wholesale 10 distributor, and they were cited by the 11 DEA for not following internal policy 12 with regards to the regulation.</p> <p>13 Q. That's all of your 14 understanding?</p> <p>15 A. They didn't follow internal 16 regulations, and they were cited as a 17 result of that. That's basically my 18 understanding of it. I don't -- I don't 19 get too involved in litigation like this. 20 That really is handled by David May. I 21 spend all of my time with managing our 22 day-to-day operation of our diversion 23 program. So I really don't get into the 24 analysis too much of things like this.</p>
<p>1 Bates-labeled ABDCMDL0047022 through 2 47078. It's an e-mail dated July 12, 3 2017. David May is asking you to listen 4 on this call on his behalf.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall that 8 occurring?</p> <p>9 A. I do not.</p> <p>10 Q. Did David from time to time 11 ask you to sit in on had calls for him?</p> <p>12 A. Very seldom.</p> <p>13 Q. But on occasions, certain 14 occasions you did?</p> <p>15 A. Like I said, very seldom. 16 This may have been the only time.</p> <p>17 Q. And do you recall the 18 discussion being reflected here?</p> <p>19 A. Not at all.</p> <p>20 Q. Do you believe that you 21 would have dialed into this call?</p> <p>22 A. Unless he subsequently told 23 me that he had it covered by somebody 24 else. But I don't recall attending this</p>	<p>1 Q. Did anyone discuss the 2 Masters decision with you or talk about 3 any changes that need to be made to the 4 company because of it?</p> <p>5 A. No. Those kinds of 6 discussions happened over my head.</p> <p>7 Q. Okay. How about the 8 Mallinckrodt settlement? You see that's 9 referenced there?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know what that is?</p> <p>12 A. I don't even recall exactly 13 what the Mallinckrodt settlement 14 entailed.</p> <p>15 Q. Okay. Do you know who 16 Mallinckrodt is?</p> <p>17 A. Yes.</p> <p>18 Q. What are they?</p> <p>19 A. They are a manufacturer.</p> <p>20 Q. Okay. You're aware that 21 they had some sort of issue that led to a 22 settlement?</p> <p>23 A. Yes. I'm generally aware of 24 it.</p>

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1 Q. Okay. What were you aware 2 of? 3 A. Generally that they had an 4 issue that resulted in a settlement. 5 Q. Okay. Do you know if it 6 concerned diversion control issues? 7 A. I don't remember to what 8 degree diversion was involved in that 9 settlement cited. 10 Q. Do you know if anyone at the 11 company was concerned about the company's 12 activities as a result of that 13 settlement? 14 MR. NICHOLAS: Object to the 15 form. Lack of foundation. 16 THE WITNESS: I don't know. 17 BY MR. PIFKO: 18 Q. Do you feel that you had 19 adequate resources to perform your job 20 functions? 21 A. Under what job title? 22 Q. When you were -- from -- in 23 the job you held from -- as the regional 24 manager from 2002 to 2015?	1 compliance managers had to -- I'm sorry, 2 compliance managers, not the RPICs. That 3 add to your workload? 4 MR. NICHOLAS: Object to the 5 form. 6 THE WITNESS: I'm not sure I 7 understand. You mean at the point 8 that they started reporting to me? 9 BY MR. PIFKO: 10 Q. Yes. 11 A. Yes, that added -- that 12 added work to our -- to our positions. 13 Q. Did you get any additional 14 staffing to help you with that? 15 A. No. 16 MR. PIFKO: I don't have any 17 further questions. 18 MR. NICHOLAS: Just give me 19 one minute. 20 THE VIDEOGRAPHER: Going off 21 the record. 4:47 p.m. 22 (Short break.) 23 MR. NICHOLAS: We have no 24 questions.
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1 MR. NICHOLAS: Object to the 2 form. 3 THE WITNESS: Yes. I had 4 adequate resources to do my job. 5 BY MR. PIFKO: 6 Q. Did you feel that -- you 7 said it took all your time. Do you feel 8 like you had too much to do? 9 MR. NICHOLAS: Object to the 10 form. Go ahead. 11 THE WITNESS: It was a very 12 demanding job, a lot of putting 13 out of fires. But yes, I had 14 adequate sources to do the job 15 adequately. 16 BY MR. PIFKO: 17 Q. When you took the job of 18 managing the RPICs, did that add to your 19 workload? 20 A. I don't know what you mean 21 by when I took my job to manage the 22 RPICs. Meaning when -- I don't know 23 what-- 24 Q. When the -- when the	1 MR. PIFKO: I think -- we 2 may meet and confer with you in 3 the future. But I think there's 4 some issues with documents, and 5 we'll discuss it, but to the 6 extent that that affects this 7 deposition, we hold it open for 8 that. 9 (Excused.) 10 (Deposition concluded at 11 approximately 4:50 p.m.)

1 2 CERTIFICATE 3 4 5 I HEREBY CERTIFY that the 6 witness was duly sworn by me and that the 7 deposition is a true record of the 8 testimony given by the witness. 9 10 It was requested before 11 completion of the deposition that the 12 witness, ERIC CHERVENY, have the 13 opportunity to read and sign the 14 deposition transcript. 15 16 17 18 (The foregoing certification 19 of this transcript does not apply to any 20 reproduction of the same by any means, 21 unless under the direct control and/or 22 supervision of the certifying reporter.) 23 24	Page 382 1 - - - - - 2 E R R A T A 3 4 PAGE LINE CHANGE 5 6 REASON: _____ 7 8 REASON: _____ 9 10 REASON: _____ 11 REASON: _____ 12 REASON: _____ 13 REASON: _____ 14 REASON: _____ 15 REASON: _____ 16 REASON: _____ 17 REASON: _____ 18 REASON: _____ 19 REASON: _____ 20 REASON: _____ 21 REASON: _____ 22 REASON: _____ 23 24 REASON: _____
Page 383 1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition 4 over carefully and make any necessary 5 corrections. You should state the reason 6 in the appropriate space on the errata 7 sheet for any corrections that are made. 8 After doing so, please sign 9 the errata sheet and date it. 10 You are signing same subject 11 to the changes you have noted on the 12 errata sheet, which will be attached to 13 your deposition. 14 It is imperative that you 15 return the original errata sheet to the 16 deposing attorney within thirty (30) days 17 of receipt of the deposition transcript 18 by you. If you fail to do so, the 19 deposition transcript may be deemed to be 20 accurate and may be used in court. 21 22 23 24	Page 385 1 2 ACKNOWLEDGMENT OF DEPONENT 3 4 I, _____, do 5 hereby certify that I have read the 6 foregoing pages, 1 - 386, and that the 7 same is a correct transcription of the 8 answers given by me to the questions 9 therein propounded, except for the 10 corrections or changes in form or 11 substance, if any, noted in the attached 12 Errata Sheet. 13 14 15 16 ERIC CHERVENY DATE 17 18 19 Subscribed and sworn 20 to before me this 21 ____ day of _____, 20 _____. 22 My commission expires: _____ 23 24 Notary Public

<p>1 LAWYER'S NOTES</p> <p>2 PAGE LINE</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p>	Page 386